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ROYAL COMMISSION ON DOMINION-PROVINCIAL RELATIONS

*Hearings*  
REPORT OF PROCEEDINGS

[ Canada ]

Vol. 1, Pt. 1-2

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OTTAWA, ONTARIO, JANUARY 17, 1938.

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## ROYAL COMMISSION ON DOMINION-PROVINCIAL RELATIONS

OTTAWA, ONTARIO, JANUARY 17, 1938

The Royal Commission appointed to re-examine the economic and financial basis of Confederation and the distribution of legislative powers in the light of the economic and social developments of the last seventy years, met at the Parliament Buildings, Ottawa, Ontario, on Monday, January 17, 1938, at 11 a.m.

PRESENT:

HON. CHIEF JUSTICE NEWTON W. ROWELL, ... CHAIRMAN

DR. JOSEPH SIROIS	)	
	)	
JOHN W. DAFOE, Esq.	)	
	)	Commissioners
DR. ROBERT ALEXANDER MacKAY	)	
	)	
PROFESSOR HENRY FORBES ANGUS	)	

Commission Counsel:

Louis S. St. Laurent, Esq., K.C.

James McGregor Stewart, Esq., K.C.

Secretariat:

Alex. Skelton, Esq.	Secretary
Adjutor Savard, Esq.	Secrétaire Français
R. M. Fowler, Esq.	Legal Secretary
Wilfrid Eggleston, Esq.,	Assistant to the Secretary

FOR THE CANADIAN MANUFACTURERS' ASSOCIATION, INC:

W. D. Black	.....	First Vice-President
J. E. Walsh	.....	General Manager
J. T. Stirrett	.....	General Secretary
J. R. K. Bristol	.....	Manager, Tariff Department
H. W. Macdonnell	.....	Secretary, Industrial Relations.
R. N. McCormick	.....	Assistant Manager, Tariff Dept.
E. Blake Robertson	.....	Ottawa Representative





Railway Committee Room,  
House of Commons,  
Ottawa, Ontario,  
January 17, 1938.

MORNING SESSION

The Commission met at 11. a.m.

THE CHAIRMAN: We are holding these special sittings in Ottawa for two purposes: first, to hear Dominion organizations that have representations to make to the Commission on one or more of the questions which the Commission is called upon to investigate, and secondly, for the purpose of hearing Dominion government officials on questions of overlapping as between the Dominion and the provinces. We will first hear the Dominion organizations. We are to hear first from the Canadian Manufacturers' Association. Mr. Black.

Mr. W. D. BLACK, First Vice President, Canadian Manufacturers' Association, was called.

MR. W. D. BLACK: Mr. Chairman and Commissioners;

"The Members of the Canadian Manufacturers' Association respectfully offer to the Royal Commission on Dominion-Provincial Relations their best wishes for the success of their investigation and cordially offer all the assistance the Association can give.

The terms of your reference give you power to deal with many subjects of vital importance to us, not only as manufacturers, but also as citizens of Canada, and, consequently, we have every reason to help you to the best of our ability.

The Canadian Manufacturers' Association has been the national organization of manufacturers since 1871. It has 3,321 members, located in all nine provinces, and engaged



"in making all kinds of products. It is estimated that the members of the Association are responsible for eighty per cent in value of the total production of firms eligible for membership, that is, of those who employ five or more persons in their mechanical departments.

Our representations to you are divided into several parts. The first presents studies of the incidence of taxation upon Canadian manufacturers. The second deals with the old age pensions and unemployment insurance. The third reviews sales tax, excise taxes and excise duties. The fourth indicated the extent of the dependence of governmental revenues and national income upon manufacturing, directly and indirectly.

It is considered that we can serve you best by confining our submission chiefly to our own field. This does not imply that we are not keenly concerned with all problems within the scope of your inquiry but we feel that other departments of national activity will be well represented by those actively engaged in them.

We share with governments and others the misgivings which inevitably result from any careful study of the steady and substantial increases in public expenditures and the resulting taxation which must accompany them. As you have official statistics of Dominion, provincial and municipal expenditures, revenues and debts, it is not necessary to repeat them here but we will endeavour to indicate the





"manner in which the taxation burdens on industry are growing.

It is recognized that industry must pay heavy taxes under existing conditions but it is submitted that total taxation should maintain a reasonable relation to earnings. Out of the gross earnings of manufacturing must come taxes for governments, wages for employees, depreciation reserves for buildings, machinery and equipment, reserves against bad times, and out of the balance, if any, dividends for shareholders. It is obvious that, if the shares of governments are too large, the others may suffer to an extent which will endanger the successful operation of industry.

While we realize that a country's constitution is not static and that changes must come with national growth, we have little hope that constitutional changes, alone, will provide the necessary remedies for existing maladies. The British North America Act worked very well for many years, during which the Dominion of Canada developed in a remarkable manner. It is significant that, during this period, a sound relationship was maintained between income and expenditure, and debts were kept within manageable bounds.

Then came the periods of railway expansion, the war and the depression, the latter two intensifying the expansion of costly social security legislation. They were all marked by greatly increased spending, mounting taxes which failed to keep pace with expenditures, and accumulating debts. We are aware of the



"futility of criticising those who were associated with these developments. Doubtless, much of the resulting evil was inescapable because it was due to world events, over which Canadians had little or no control, and to optimistic estimates of the growth of Canada which have not been fulfilled. In any case, those things belong to the past and we are faced with the realities of dealing with the situation as it exists to-day. We respectfully submit that our troubles are chiefly financial. If, by some means, public expenditures and taxes could be reduced by twenty per cent, or by even ten per cent with reasonable hope that they could be stabilized, at such lower levels, many of the pressing problems of to-day would disappear.

If, on the other hand, an entirely new constitution for Canada were provided, we venture to think, that if public expenditures and consequently taxes continued to increase, the new plan would encounter exactly the same difficulties as we are experiencing to-day.

Confederation was made possible by an agreement among separate provinces to become a

Dominion and we believe that if there is the will on the part of the people to do it, the Dominion and the provinces can allocate their respective fields of responsibility and taxation in such a way that they can solve their financial difficulties, provided always they make up their minds to live within the respective incomes agreed upon. It is assumed that certain sections of the country, which are faced with unusual and severe temporary disabilities, should



"have special consideration until these conditions change for the better.

We submit that something should be done to exercise some joint control and regulation of borrowing. Those who loaned their savings to provinces and municipalities did not really think of them as separate entities. Although there were no contractual obligations, many of these lenders really thought of the provinces and municipalities as parts of the Dominion of Canada. If the confidence of lenders is to be maintained, the credit of the Dominion, of the provinces and the municipalities must be safeguarded, and it seems reasonable to think that this can be done better by collective understanding than by independent action.

We are dealing with material matters, such as finance, economics and taxes because it is necessary to do so, and the terms of the Commission's reference require such action, but we are fully aware of the more important underlying problem. Our ancestors believed that, through united action, they could establish and maintain a self-governing nation as part of the British Empire in the north half of this Continent. Our duty in spite of all obstacles is to continue what they began."

EXHIBIT No 87 : General Introduction  
to Submission by the  
Canadian Manufacturers'  
Association.





THE CHAIRMAN: Mr. Black, there are two points in this introductory statement upon which I should be glad if you could give us further information, but if it is dealt with in detail in other parts of the Brief, we can leave it till that time. First I would ask you to look at your statement on page 2, that, "If, by some means, public expenditures and taxes could be reduced by twenty per cent, or by even ten per cent with reasonable hope that they could be stabilized, at such lower levels, many of the pressing problems of to-day would disappear." Has your Association given consideration to the question of how that could be done, what services could be reduced, or whether there is any recommendation we could make dealing with the matter?

MR. BLACK: I think that that matter is dealt with, Mr. Chairman, more fully in Part V of our Brief, and it is also dealt with to a certain extent in Part II.

THE CHAIRMAN: Then we will leave it till we come to that.

The other question I had to ask was with reference to your statement in your General Introduction that there should be "some joint control and regulation of borrowing". Is that dealt with in the other sections of the Brief?

MR. BLACK: No.

THE CHAIRMAN: Then if that is not dealt with in the other sections, has your Association given consideration to any practical method whereby you think that result could be accomplished?

MR. BLACK: No further than the suggestion that is made there, Mr. Chairman, for a collective understanding. It has already been indicated in the past few years that the federal government acknowledges a certain sense of responsibility for assisting the various provinces,



and where that assistance is extended, we think there should be proper cooperation on the part of the province. The province then, in turn, may very well have some collective understanding with the municipalities whereby borrowings may be controlled within reasonable limits. But that is another point which, as we indicated in the earlier part of our Brief, we are leaving more to the financial people because we assume that they are more directly in touch with that phase and will cover it themselves.

THE CHAIRMAN: I just want to get the point perfectly clear because it is a very important one. It is the considered view of your Association, is it, that in connection with government borrowing there should be in the future some joint control and regulation of the borrowing?

MR. BLACK: Yes, I should say definitely so.

THE CHAIRMAN: Thank you, Mr. Black.

MR. BLACK: Next, Mr. Chairman, Mr. Macdonnell, will present Part II on Taxation of Manufacturing in Canada.





## TAXATION OF MANUFACTURING

Mr. H.W. MACDONNELL, Secretary, Industrial Relations Committee, Canadian Manufacturers' Association, was called.

Mr. MACDONNELL: Mr. Chairman and Commissioners,-

"In the following pages we propose to discuss the present system of taxation affecting manufacturers in Canada, and respectfully offer certain comments, criticisms and recommendations on behalf of the membership of this Association. We note that the Commission has been empowered, among other things, "to investigate the character and amount of taxes collected from the people of Canada," and "to determine whether taxation as at present allocated and imposed is as equitable and as efficient as can be devised." It is to these questions, particularly as they concern the Canadian manufacturer, that we propose to address ourselves.

On the amount of taxation presently collected we do not propose to dwell at any length. We realize that the calls upon governments are heavy and yearly becoming heavier. For this reason, while this Association shares the desire of every Canadian that taxation should be as low as possible, our main concern here is not to complain of the burden of taxation upon manufacturers. Our submission is rather that the present system of taxation is not as efficient and equitable as can be devised and that it imposes an unnecessary burden upon manufacturers in proportion to the revenue derived. It is a truism to say that the ideal form of taxation from industry's point of view would be one that is marked by a maximum of certainty, simplicity, uniformity, equality and finality. The object of what follows will largely be to show that our present system of taxation in



"Canada falls lamentably short of this ideal.

No stronger evidence of the lack of certainty, simplicity and uniformity in the present system of taxation governing Canadian manufacturers could be offered than a list of the multifarious taxing and licensing statutes now in force in Canada. Without attempting an exhaustive compilation, it is possible to cite at least 193 federal and provincial statutes that provide for the taxing or licensing of Canadian industry as a whole. In addition to these statutes of general application, there are at least 52 additional statutes affecting particular industries, for instance those engaged in canning, dairying, distilling and brewing. Most of these 245 statutes have been frequently amended since their passing or since the last consolidation of statutes, many of them as often as once a year, some more often still. Thus, the 193 statutes of general application referred to above have been amended no fewer than 861 times since they were passed or last consolidated. The 52 special statutes have been amended 82 times. The total figures of 245 taxing and licensing statutes and 943 amendments, high as they are, would be still further increased if the statutes incorporating the more important cities and towns were to be added; many of these authorize the levying of taxes and license fees. In addition it is to be remembered that many of the statutes included in the above totals authorize municipalities or school districts to impose taxation and that in Canada there are estimated to be 2,546 municipalities and 23,231 school districts."



THE CHAIRMAN: You think, Mr. Macdonnell, that manufacturing concerns should not have to look at 900 statutes to find out what their taxes are?

MR. MACDONNELL: That is it, sir, yes. We do not say, of course, that every manufacturer has got to do that, but we thought it might be worth while simply to make a more or less complete list of them.

"A complete list of these general and special taxing and licensing statutes is given in Appendix I starting at page 9 of the present brief, together with a summary of the contents of each. At this point we content ourselves with a tabulation of these statutes by jurisdictions:

	General	Special
DOMINION		
Number of statutes	5	4
" " Amendments	48	5
<u>ALBERTA</u>		
Number of Statutes	46	8
" " Amendments	135	15
BRITISH COLUMBIA		
Number of Statutes	11	4
MANITOBA		
Number of Statutes	21	4
" " Amendments	93	6
NEW BRUNSWICK		
Number of Statutes	14	4
" " Amendments	49	14
NOVA SCOTIA		
Number of Statutes	12	2
" " Amendments	141	0
ONTARIO		
Number of Statutes	21	6
" " Amendments	132	11





	General	Special
PRINCE EDWARD ISLAND		
Number of Statutes	10	2
" " Amendments	28	2
QUEBEC		
Number of Statutes	21	12
" " Amendments	166	23
SASKATCHEWAN		
Number of Statutes	32	6
" " Amendments	69	6
Total number of general taxation statutes in Canada		193
Total number of special taxation statutes in Canada		52
TOTAL NUMBER OF TAXATION STATUTES IN CANADA		245
Total number of amendments to general taxation statutes in Canada		861
Total number of amendments to special taxation statutes in Canada		82
TOTAL NUMBER OF AMENDMENTS TO TAXATION STATUTES		943



THE CHAIRMAN: British Columbia and Prince Edward Island apparently have fewer taxing statutes than the Dominion, and the Dominion comes next.

MR. MACDONNELL: Yes, Mr. Chairman. I continue:

#### TAXES GENERALLY

" It will be seen that apart from the many special taxes and license fees, the general statutory taxes include:

##### Income:

Dominion Income Tax

7 Provincial Income Taxes (i.e. all the provinces except Nova Scotia and New Brunswick).

Municipal Income Taxes in Ontario, New Brunswick and Quebec.

##### Capital:

7 Provincial Capital Taxes (i.e. all except British Columbia and Manitoba).

Thus, companies doing business in all the provinces are called upon to pay eight different Dominion and provincial income taxes; seven different provincial capital taxes, and, possibly, several municipal income or business taxes. Moreover, it is generally true to say that each jurisdiction proceeds without any reference to what is required in the others. For instance, the Dominion Government makes no allowance as an expense of doing business, for income tax paid by industry to the provinces and municipalities, nor, with the exception of Manitoba, do the provinces, or in most cases the municipalities make any allowance for income tax paid to the Dominion. Thus, it is obvious that there is less reciprocity between the Dominion and the





"provinces in this regard than between Canada and, for example, the United States."

THE CHAIRMAN: With the exception of Manitoba, you say, Mr. Macdonnell, that there is no allowance made by any province or municipality for Dominion income tax, and that the Dominion makes no allowance for provincial or municipal income tax?

MR. MACDONNELL: That is it, sir, yes.

THE CHAIRMAN: But there is an arrangement whereby as between the Dominion and the United States the income tax paid is recognized?

MR. MACDONNELL: Yes, that is so.

THE CHAIRMAN: And you think there should be at least as much reciprocity within Canada as there is between Canada and other countries?

MR. MACDONNELL: Exactly, Mr. Chairman.

The next heading is "Complexity and Lack of Uniformity in Returns and Regulations."

#### Complexity and Lack of Uniformity in Returns and Regulations.

"Each taxing authority requires elaborate returns to be filed, giving detailed information as to the capital structure and operations of the company, not only in the jurisdiction in question, but generally.

The inconvenience and expense thus involved will be appreciated from a consideration of the following:

1. An ordinary industrial company operating in all the provinces is required to file some 40 annual returns (income, capital, registrations, employees' earnings, etc.), and in addition thereto, 5 monthly returns in connection with sales



"tax, employees' earnings tax, etc.--total aggregate annual returns thus numbering some 100. In Appendix II, pages 23, and 24, is given a list of the above-described returns as required of an actual member of this Association.

2. The fiscal periods covered by the returns and the filing dates vary from one jurisdiction to another and another."

THE CHAIRMAN: Do you, Mr. Macdonnell--I have read the brief but I have forgotten--make certain practical suggestions as to how this multiplicity of returns could be obviated or the number greatly reduced?

MR. MACDONNELL: Yes, Mr. Chairman; we have some definite recommendations at the end.

THE CHAIRMAN: Thank you.

MR. MACDONNELL: I continue:

"3. Requirements for determining taxable income and capital differ entirely or in part as between various jurisdictions.

4. The various statutory definitions as between one taxing authority and another are at variance, e.g., the definition as to what constitutes "carrying on business."

The foregoing will help to explain why a company such as is referred to above estimates that the work of preparing its returns and settling its tax liability with the various taxing authorities requires no less than the equivalent of the full time of 12 employees, including the part time service of certain executives."

THE CHAIRMAN: Mr. Macdonnell, would that apply to a large number of manufacturers?

MR. MACDONNELL: I think it would apply, sir, to companies doing business in all the provinces. Those figures



were given by one particular company. It was a very careful estimate. We questioned it and asked them to go into it again, and that was the result. It is a particularly big company which operates in all the provinces, but I think it is fair to assume that any sizeable company operating in all the provinces would be put to a comparable amount of trouble and expense. This is, admittedly, one of the larger companies.

"We propose to present a file of the numerous forms required to be completed by such a company so that the Commission may appreciate the very large amount of labour and expense involved, a large part of which, we submit, could be obviated by the adoption, generally, of the kind of arrangement that was made last year between the Dominion and Ontario, whereby a single return with respect to personal income tax served for both jurisdictions.

This lack of uniformity referred to is further illustrated by the various regulations and rulings of the different governments, a few of which are noted hereunder:

1. With respect to the definition of what constitutes "carrying on business" most of the provinces do not regard an extra-provincial company as carrying on business in the particular jurisdiction unless it has a resident agent or representative or an office, warehouse, or place of business in the province. However, Alberta has legislated recently to provide that any method of securing orders other than by correspondence, shall be deemed to constitute carrying on business in that province within the meaning of The Companies Act of Alberta."





THE CHAIRMAN: Then the broad distinction would be this, would it not, that in the other provinces there must be a branch or head office, but in Alberta, if a firm had a salesman soliciting orders, the firm would be deemed to be carrying on business within the province?

MR. MACDONNELL: In the case of all the provinces except Alberta, it is exactly as you have said, Mr. Chairman, that unless the company has a resident agent or an office or place of business within the province, it is not deemed to be carrying on business within the province. In other words, it could send into the province non-resident travellers or get orders by correspondence without being deemed to be carrying on business; but in Alberta, under the new dispensation, only companies which get their business through correspondence are deemed to be not carrying on business.

THE CHAIRMAN: That is what I mean. Under the present Alberta legislation, if a firm sends a traveller into Alberta to solicit orders, that firm is deemed to be carrying on business within the province and is subject to the provincial corporation tax, whatever the tax is?

MR. MACDONNELL: That is it, sir,--if the traveller is caught. I continue with paragraph 2:

"2. Special provisions disallowing directors' fees as charges against taxable profits, unless the directors are resident in the province levying the tax, are enforced in some but not in other provinces.

3. Certain, but not all provinces, have special provisions for the taxing of loans to shareholders where companies have an undistributed balance in the surplus account.

4. The regulations respecting reserves for bad



debts are greatly at variance. In Ontario, an estimated allowance for bad debts is permitted, provided the balance of the bad debt reserve is not in excess of 10 per cent of the outstanding accounts receivable; whereas in Quebec and British Columbia such deductions from taxable income are allowed only for the bad debts actually incurred.

5. As to wear and tear depreciation allowance—in British Columbia rates therefor are on a lower scale, generally, than those used by the Dominion. Also, no further allowance is granted when the accumulated reserve amounts to 75 per cent of the cost; whereas the Dominion allows for depreciation up to 100 per cent of the cost, with the provision that the last 20 per cent must be spread over a ten year period."

THE CHAIRMAN: Is there any reason for the difference in British Columbia in the climatic conditions? Do they assume that in the British Columbia climate there is less wear and tear on buildings, plant and machinery?

MR. MACDONNELL: I have never heard that suggested, Mr. Chairman, but it is an interesting suggestion. Then six:

" 6. In British Columbia, interest on money borrowed outside the province is not allowed as a deduction from taxable income unless a separate return is made covering such interest and income tax at a rate not exceeding 5 per cent is paid thereon.

7. Quebec alone among the provinces disallows, as a deduction in determining taxable income, bonuses of any kind paid to regular, full-time employees.



" 8. In the Province of Quebec there exist no standard regulations governing the method of determining for taxation purposes the percentage of company's assets that are situated within the province, the matter being left to the discretion of the tax authorities. Thus, the individual taxpayer is given no assurance that any uniform procedure will be employed or that there will be any equality as between different taxpayers.

9. Section 6 (a) of the Dominion Income War Tax Act appears, particularly, to be the enemy of uniformity. In it, the Commissioner is given full discretion to decide whether expenses claimed as deductions have been "wholly, exclusively and necessarily expended for the purpose of earning the income". Thus, it has been left open to the administering official to disallow certain ordinary, proper business expenses, merely because they are large in amount, unusual, or not necessarily recurring from year to year, and others because, though expended for the purpose of earning the income, it was not to earn the income in the particular year for which they were claimed as a deduction."

THE CHAIRMAN: Mr. Macdonnell, how would you suggest that matter should be dealt with? It is admittedly a matter of difficulty because the department must guard against what they may consider padding of the expense account in order to reduce the assessable income. How would you suggest that it should be dealt with?

MR. MACDONNELL: I cannot go further than this, Mr. Chairman, that there ought to be more definite regulations. At present it is very much a catch-as-catch-can





matter. The discretion is so wide that really the Commissioner of Income Tax is in the position of saying to a firm--there is a point up at present in connection with advertising, and the Commissioner is really in the position of saying to one firm, "You are justified in spending \$10,000 in advertising, but in my opinion you are not justified in spending \$15,000." It strikes us that it is unsound and anomalous that the Commissioner of Income Tax should be in the position of saying to one industry after another, "My opinion is that you are not entitled to spend more than a certain amount on advertising."

How can the Commissioner of Income Tax properly decide whether it pays a certain industry to spend a certain amount on advertising?

THE CHAIRMAN: Are there many items of that character that go into the expense account?

MR. MACDONNELL: Yes, under Section 6 (a) of the Dominion Income War Tax Act. The question of what is rental, for instance, and what must necessarily be spent in earning the income of a firm is a very important thing. Our members attach great importance to it, and we have quite a number of points up at present with the Commissioner. As I say, it is in a very chaotic state at present. You never know what you are going to get.

COMMISSIONER ANGUS: Would it require a very complicated change in the legislation to define in advance what it should cover in each case?

MR. MACDONNELL: It would be very difficult, Mr. Commissioner, but we think more could be done in the way of laying down regulations and publishing them.

COMMISSIONER MacKAY: Whether statutory or simply administrative regulations, they should be published?

MR. MACDONNELL: Exactly. We refer to that later on,



the desirability of having all regulations published. At present in a great many jurisdictions certain regulations are published and the taxpayer thinks that he knows the whole story, but then he finds that there are other departmental regulations which have not been published. We deal with that later on.

Next in our Brief we deal with duplication and overlapping:

#### DUPLICATION AND OVERLAPPING

" 1. A striking example of duplication is the variance in methods of determining the amount of the taxable capital in Ontario and Quebec. Until recently the Ontario method was to allocate taxable capital on the basis of the proportion of Ontario sales to total sales. In Quebec, the total paid-up capital is taxable, subject to quite arbitrary reduction by order in council in the case of companies with head offices outside and doing business in Quebec and of companies with head offices in, but having the greater part of their assets outside, Quebec.

It is inevitable that such divergent methods of applying this tax should produce anomalies and hardship and there are cases of companies operating in the two provinces being taxed on 150 per cent to 180 per cent of their capital.

2. The method of allocation of taxable capital in Ontario, noted above, which was employed prior to 1936, whereby only actual Ontario sales and sales in jurisdictions where the company had no office and paid no tax were considered as Ontario sales for the purpose of such allocation, has now been changed so that



"Ontario now levies on the total taxable income and capital of companies with head offices in Ontario, subject to deduction only of the taxes actually paid in other jurisdictions, up to but not in excess of the amount thereof calculated at the Ontario rates. This ruling means that if 5 per cent income tax has been paid in, for example, Manitoba, Saskatchewan and Alberta, and the Ontario income tax rate is 1 per cent, which it is, of course, only 1/5 of the taxes actually paid in such other jurisdictions is allowable in Ontario as a deduction from Ontario tax.

3. In the Province of Quebec no allowance is made for that portion of capital which may have been invested by the taxpaying company in other companies doing business in that province. Thus, the capital of the taxpaying company is taxed twice, once in the hands of the company making the investment and again as part of the capital of the company in which it is invested.

In Ontario, on the other hand, an allowance is made for capital reinvested outside the business."

THE CHAIRMAN: Going back for a moment to 2 and 3,

Mr. Macdonnell, have you any suggestions as to how that matter could be most conveniently and economically and satisfactorily dealt with from the standpoint of the government and the manufacturer, to ensure that the government would receive the desired amount of taxes and so that the manufacturer would have some certainty as to what was payable?

MR. MACDONNELL: Our recommendation Number 4, on





page 8 deals with that. It reads:

"That, if taxes on capital are to be imposed, the various provinces doing so should standardize and coordinate their systems so that only one annual return, one collection agency and one audit will be required, the division between the provinces being made on a uniform basis of the sales actually made in each jurisdiction."

There should be only one collection agency, one audit, and one annual return. I continue:

"In Quebec, all dividends from investments are taxable in the hands of a company whose head office is in that province. Thus, it would result that profits of two separate companies operating in Quebec may be taxed twice, once in the hands of the earning company and a second time as dividends in the hands of the investing company.

In most other provinces, where revenue is subject to tax, dividends received by a company are not taxable in cases where the profits of the disbursing company have already been taxed in the same province, so that it may be said that there is equitable taxation in this respect, at least, within these provinces.

On the other hand, however, in each province where a revenue or income tax is imposed, dividends received by taxpaying companies from companies operating in provinces other than that in which the recipient company is domiciled, are taxable in the hands of the recipient company in spite of the fact that the profits out of which the dividends were paid have already



"been taxed in the province or provinces in which such dividends were earned.

5. Reference has been made above to the fact that in all provinces where revenue taxes were imposed, with the exception of Manitoba, income tax paid to the Dominion government is not regarded as a deduction from income for provincial revenue or income tax purposes.

#### Discrimination

Numerous examples could be cited where taxing statutes create inequality and discrimination as between one group of manufacturers and another. Especially marked in this regard is the tendency which seems to be increasing on the part of some provinces to discriminate against companies having their head offices outside the taxing province or against domestic companies, partnerships or individuals importing goods from outside jurisdictions for sale within the taxing province.

As example of this is the 1936 amendment to The Corporations Tax Act of New Brunswick, which imposes a tax on gross retail sales made by the two classes of traders referred to above. This, it is submitted, is tantamount to the creation of a provincial tariff and is a violation of the spirit, and indeed, the letter of Section 121 of the British North America Act, which provides that articles of the growth, produce or manufacture of any one of the provinces shall be admitted free into each of the other provinces."

(Page 2335 follows)



THE CHAIRMAN: Whereabouts in your schedule are the terms of the New Brunswick Act given? You raise an important point there, and while we are on it you might look at the schedule to see what the provision is.

MR. MACDONNELL: It is the 1936 amendment to the Corporation Tax Act. I am afraid that particular amendment is not specifically noted here. The amendment empowered the Lieutenant Governor in Council to impose a tax on the gross retail sales in the case of companies with head offices outside the province selling goods inside, and in the case of companies, partnerships or firms inside the province selling goods manufactured outside and imported for sale in New Brunswick.

THE CHAIRMAN: Imported in the sense of being brought from another part of Canada?

MR. MACDONNELL: Yes.

THE CHAIRMAN: A tax that does not apply to any other merchants in that same line of business?

MR. MACDONNELL: That is it, exactly.

THE CHAIRMAN: Has its legality been challenged?

MR. MACDONNELL: It has been challenged, but it has not reached the courts yet.

THE CHAIRMAN: Of course, if that could be generally applied it might be made extremely difficult for a business with its head office outside the province to carry on business in the province.

MR. MACDONNELL: Yes.

THE CHAIRMAN: That is not the only illustration. New Brunswick is not the only province that has a special tax.

MR. MACDONNELL: No, it is not. This is perhaps the most striking case, but the same thing occurs in other provinces.





THE CHAIRMAN: That would be just as effective as a tariff.

MR. MACDONNELL: Yes.

THE CHAIRMAN: If that principle were applied and extended it would have the same effect as a tariff as between the provinces.

MR. MACDONNELL: I think, undoubtedly.

THE CHAIRMAN: In that the tax discriminates against a corporation whose head office is outside the province to the same extent as if they had to pay a duty to enter their goods into the province.

MR. MACDONNELL: Yes.

THE CHAIRMAN: It would be just the same.

MR. MACDONNELL: Yes.

THE CHAIRMAN: You say it has not reached the courts yet?

MR. MACDONNELL: No, it is not in the courts yet. As a matter of fact, it was passed in 1936, but was not proclaimed until a month or two ago.

I continue with the brief.

"Again, an Ontario company, which usually does its selling in New Brunswick through a Montreal wholesale house, was required to pay a corporation tax and filing fee of \$105 in New Brunswick because it happened to make a \$200 sale through a St. John commission agent. If other provinces followed this example, it is obvious that inter-provincial trade would be seriously restricted.

Another species of discriminatory tax is that imposed on a particular type of business in such a way as to penalize those engaged in such business in comparison with competitors located outside the jurisdiction and making sales within the province in



question, and with domestic companies marketing competitive products.

Examples of this type of discriminatory tax are:

1. British Columbia imposes a tax on fuel oil, but coal, a competitive product, remains untaxed.

2. Gallonage tax on retail sales of gasoline ranges in the various provinces from 6 cents to 10 cents per gallon and represents an addition to consumers prices of upwards of 30 per cent.

This special tax, levied solely on one commodity, was introduced and justified upon the theory that the cost of construction and maintenance of provincial highways should be paid by those using them. In practice, however, it has been found that a large portion of this revenue has been diverted to pay for other governmental activities or services of no particular benefit to the motoring public.

3. The method, referred to above, of applying the Ontario tax on the income and capital of corporations gives extra-Ontario companies doing business therein a decided advantage over Ontario companies because the extra-Ontario companies are taxed solely on the basis of the proportion of Ontario sales to total sales, whereas the Ontario companies are taxed on their total income and capital, subject to the very limited deduction described."

THE CHAIRMAN: I think one might assume that the \$105 to which you refer was more than the profit on the \$200 sale.

MR. MACDONNELL: Yes. The Ontario companies are allowed to deduct the actual tax they pay in other jurisdictions provided they are not more than they would



be at the Ontario rate.

THE CHAIRMAN: You say Ontario is going to the other extreme. She is imposing heavier burdens on her own corporations than she is on those who are doing business with head offices outside Ontario?

MR. MACDONNELL: In that case, exactly.

THE CHAIRMAN: Have you anywhere in the brief listed the other illustrations of provinces by this system of taxation discriminating against any Canadian company doing business in the province. You speak of their being a number, but you give one illustration here. Have you anywhere the different illustrations listed?

MR. MACDONNELL: I am afraid we have not listed the illustrations in this brief, but we can supply them.

THE CHAIRMAN: We shall be very glad to have them; otherwise New Brunswick might feel it was being picked out as a special example. We know there are other provinces where the same situation applies -- perhaps not in the extreme form we have here, but the same principle is being applied in regard to taxation.

MR. MACDONNELL: Yes. We shall be glad to do that

COMMISSIONNER ANGUS: Do you think the purpose of this discrimination is to do something equivalent to protective tariff; that is to say, try to alter the location of industry; or that it is an attempt by the province to get a sort of equity between themselves as to which province has the right to tax the profits of a company whose head office is in one of them? In some of the western provinces there has been the complaint that the eastern provinces get revenue that in equity belongs to the western provinces, because they are able to tax the head office.

MR. MACDONNELL: I think that certainly enters into it. In the New Brunswick case I think there is not much





doubt that the point there was to help the local people against some big outside corporations who had established selling organizations in the province. I think undoubtedly the pressure there came from the local retail interests.

COMMISSIONER ANGUS: Is it not a question of working out some method of distributing the revenue between the provinces?

MR. MACDONNELL: Yes, I agree.

THE CHAIRMAN: Perhaps it comes up later.

Commissioner Angus raises a point which was raised in the brief of one of the western provinces in regard to corporation taxes. It was suggested that it might be better if the corporation tax were collected by one central authority and some principle of distribution applied. .

MR. MACDONNELL: Yes. We make that proposal definitely with regard to income tax. That is one of our recommendations. The next heading reads as follows:

THE DELEGATION OF LEGISLATIVE POWER TO  
GOVERNMENT OFFICIALS

"Reference has already been made to the great number and variety of statutes in Canada affecting the tax burden upon manufacturing concerns. It has been pointed out that there exists no fewer than 245 taxing and licensing statutes and 943 amendments thereof affecting Canadian industry. But even this is not the whole story. A very large number of these 245 statutes give to the Governor General in Council, a Lieutenant Governor in Council or a Minister, such wide power to make regulations, fix fees and the like, as to amount to a delegation of the right to legislate.



This Association, of course, appreciates the fact that it would be difficult or impossible to frame certain taxation statutes without delegating at least some legislative powers to governmental officials. But it suggests with respect that the custom of delegating such powers can be abused and in fact has been, and is increasingly being, abused in Canada. When so abused it is one of the prime causes of the present lack of certainty, uniformity, equality and finality in the system of taxation governing Canadian industry.

The objections to the delegation by the legislature of powers, which rightfully belong to it, to a cabinet, a minister or an official whose functions are executive rather than legislative, are too well-known to need much comment here; they have been discussed at length by several recent authorities among whom is Lord Howart, the present Lord Chief Justice of England. But a few points may perhaps be emphasised. In England statutory rules and orders are published annually according to a systematic plan. Not only is there no such annual publication in Canada, in which regulations are made available to the taxpayer in convenient form, but in many cases the regulations are not printed in any form at all. In one case, for instance, a provincial treasury department publishes 13 pages of regulations with respect to a particular tax and then proceeds to make departmental rulings which modify these published regulations but are themselves unpublished. It is submitted that the failure to publish regulations and orders in readily available form undermines the respect for law, takes away from the taxpayer his



assurance of equality of treatment, and makes it difficult for him to calculate in advance the taxation to which he may be liable."

THE CHAIRMAN: There is, of course, a clear distinction between regulations and rulings, although rulings may have the effect of interpreting or perhaps modifying the regulations. You mean that there are many regulations existing which are pure regulations, and which are not published at all?

MR. MACDONNELL: Yes, that is true in some jurisdictions. But generally speaking I think it is fair to say that in the case of most of the regulations, as a rule they are not complete and, as I say, they do not include various departmental rulings which modify the published regulations.

THE CHAIRMAN: In other jurisdictions, is it the custom to publish departmental rulings?

MR. MACDONNELL: Definitely, sir, yes; in the United States, for example.

THE CHAIRMAN: To illustrate, a firm applies for a ruling in respect of some matter of importance under a regulation, and a ruling is made for the firm or against the firm, as the case may be. Another firm, finding itself in the same situation, but not knowing of this decision, makes an application raising the same point. You say there is no settled practice that governs it, or that the firms have no knowledge of the practice established by these rulings.

MR. MACDONNELL: In some jurisdictions some attempt has been made. The Dominion does, from time to time, publish some rulings in the National Revenue Journal which comes out, I think, once a month. The Dominion has been making some effort to do that, I believe; but other jurisdictions do not. Even in the case of the Dominion





our view is the publication of rulings has not gone far enough, and that the British and American practice goes much farther and is, in our opinion, sounder.

THE CHAIRMAN: When I was at the Bar I heard complaints made frequently that in regard to important matters affecting taxation rulings were made and other parties in a similar situation had no knowledge of them and because of that they had paid an amount which they should not have paid if they had knowledge of the ruling. It would appear to be essential to equitable treatment of all concerned that important rulings which do interpret regulations should be made available to all who are subject to the regulations so that all would be treated alike.

MR. MACDONNELL: That is our point exactly, Mr. Chairman. I continue with the brief:

" There is a growing tendency in Canada for parliament or the legislature to pass acts expressing its intention in general terms and leaving to a government department the manner of carrying out that intention. A common clause found in taxation statutes is one giving to the lieutenant Governor in Council power to make regulations for the purpose of carrying into effect the terms of the act. With respect, we feel that such a clause as this confers too great a discretion upon the executive and is objectionable. We consider equally objectionable those clauses that authorize a minister to impose a license fee or tax at his discretion, or to fix the rate at which the tax or fee is to be levied.

An example of the first type will be found



in section 226 of "The Motor Vehicle Act" of Nova Scotia, which gives the Minister of Highways power, subject to the approval of the Lieutenant Governor in Council, to make regulations licensing commercial motor vehicles operated upon provincial highways."

THE CHAIRMAN: Just to carry that illustration a little farther, or at least to put it in a little more definite form, is your objection to the licensing, or is your objection only to the fixing of the fee?

MR. MACDONNELL: That is what I mean; the power to fix the fee is delegated.

THE CHAIRMAN: Well, there is no suggestion that the fee is not a uniform fee?

MR. MACDONNELL: No.

THE CHAIRMAN: Your suggestion is that it is a matter the legislature should itself determine.

MR. MACDONNELL: Yes, that is it.

THE CHAIRMAN: The legislature should determine what the fee should be and the Minister should be the one to administer the act rather than to determine the amount of the taxation?

MR. MACDONNELL: Yes; as we say later on, the executive and administrative branch ought to be allowed to say how the tax is to be collected, but not how much is to be collected.

THE CHAIRMAN: You say parliament or the legislature should determine the amount of the tax?

MR. MACDONNELL: Yes.

COMMISSIONER MACKAY: From the point of view of your association, what difference does it make?

MR. MACDONNELL: Well, our point here is a general one. You mean, in the case of this particular act?



COMMISSIONER MACKAY: What difference does it make whether the fee is fixed by the executive authority or passed by the legislature?

MR. MACDONNELL: Our general point is that, as I have tried to say, it is for the legislature to tell the taxpayer how much he has to pay, and it should be left to the executive the power to make regulations as to how it is to be collected. We feel that it is the duty of the legislature to fix the amount. That is our point.

COMMISSIONER MACKAY: On general principles?

MR. MACDONNELL: Yes, that is the idea. The brief continues:

"An example of the second is section 3 of The Gasoline Tax Act, 1926, of Nova Scotia, which authorizes the Lieutenant Governor in Council to fix from time to time the rate, not exceeding eight cents a gallon, at which the gasoline tax imposed by the Act is to be levied. Other examples of the same type of provision will be found in section 225 of The Motor Vehicle Act of Nova Scotia, section 11 of the Corporations Tax Act of New Brunswick, and sections 3 and 4 of the Provincial Land Tax Act of Ontario.

The final type of clause delegating legislative power to which we wish to refer, is that to be found in section 5 of the Corporation Tax Act of Quebec, which, with respect to capital and place of business tax, authorizes the Lieutenant Governor in Council to allow such reduction of taxes as he may deem just, where the company has its head office outside the Province and does business within the





Province, or has its head office in the Province but the greater part of its assets outside the Province, or has its head office in the Province, but does therein only the business of a holding company. Other examples of this kind of delegation will be found, for instance, in section 16 of the Provincial Revenue (Corporations) Act and section 28 of the Domestic, Dominion and Foreign Corporations Act, of Nova Scotia, in section 19 of the Corporations Tax Act of New Brunswick, in section 170 of the Security Transfer Act of Quebec, in section 4 of the Provincial Land Tax Act of Ontario, and in section 18 of The Corporations Taxation Act of Alberta."

THE CHAIRMAN: Before you pass on may I ask what is the nature of the provision in the Provincial Lands Tax Act of Ontario?

MR. MACDONNELL: I have not the details of that at the moment. May I give you the information on that later?

THE CHAIRMAN: Quite so.

MR. MACDONNELL: I continue with the brief:

"But the taxing statute that has gone furthest in the direction of delegating legislative powers to governmental departments is undoubtedly The Licensing of Trades and Businesses Act, 1937, of Alberta. The Act itself provides merely that it shall apply, with certain specified exceptions, to all trades, businesses, industries, employments and occupations carried on in the Province of Alberta, to which the powers of the Legislative Assembly extend. It specifies neither the rate nor the basis upon which license fees are to be calculated, nor does it specify the trades, businesses



and industries that must, and those that need not, be licensed. Authority is given, not even to the Lieutenant Governor in Council, but to the Minister of Trade and Industry, to provide by order for all these things. Even more objectionable is section 8 of the Act, which provides that in any case in which it appears to the Minister that it is questionable whether it is in the public interest that any application for the issuance or renewal of any license in respect of any business in any locality should be granted, the Minister may, if he is satisfied that it is in the public interest so to do, refuse such application. It is questionable whether it would be possible to find another act of a British legislature that goes so far in the direction of delegating to an official the right to deprive the citizen of his liberties."

THE CHAIRMAN: Has the legality of that been questioned?

MR. MACDONNELL: It has been questioned, Mr. Chairman, but so far as I know there is no actual litigation in progress.

THE CHAIRMAN: The principle is established, as you know, in the John Deer Plough Company case that a province could not prevent a dominion company from carrying on business within the province.

MR. MACDONNELL: Quite.

THE CHAIRMAN: If this went to the extent of denying a dominion corporation the right to carry on business one would wonder whether it could be sustained even though it is put in a discretionary form.

MR. MACDONNELL: Yes.

THE CHAIRMAN: Is it likely to be challenged in the courts?



MR. MACDONNELL: I have nothing definite on that Mr. Chairman. The brief continues:

" The delegation of legislative powers by parliament or legislature is particularly objectionable in the field of taxation, to which the famous dictum that it is just as important that the law should be known as that it should be just has particular application. Where, as in the case of section 5a of the Quebec Corporation Tax Act, the power to determine what deduction shall be allowed for depreciation, in effect to determine what is taxable income, is vested in the Provincial Treasurer, companies have found that there is no certainty as to the amount payable by any one taxpayer and there is no guarantee of equality as between different taxpayers. Experience of manufacturing companies under The Corporations Taxation Act of Alberta, where their head office or part of their assets is situated outside the Province, is that the right given to the Lieutenant Governor in Council to grant adjustments is exercised in a purely arbitrary manner. One member of the Association, for instance, found, though only 5 per cent of its capital was employed and only 5 per cent of its sales were made in Alberta, that it was taxed as if 45 per cent of its business was carried on in that Province. And no appeal was open to it from the decision of the official concerned. It is submitted that, however far a legislature may desire to go in delegating to executive or departmental authority the power to say how a tax is to be collected, it is unsound and improper to delegate the power to say how much is to be





collected. It is not too much to say that when this latter power is delegated to executive or departmental authority, the result is a manifest violation of the principle of no taxation without representation.

#### RETROACTIVE TAXATION LEGISLATION

In recent years there has been noticeable on the part of the Dominion and certain of the provinces a tendency to amend taxation statutes with retroactive effect. This we respectfully deprecate, believing it to result almost invariably in uncertainty and injustice. A taxing statute, for instance, that in 1937 raised the rate of taxation on income from 10 per cent to 15 per cent, and applied the increased rate to income earned in 1936, would be obviously unsound. It would immeasurably complicate the problems of business. A charge rightfully payable out of income earned in 1936 would in practice have to be paid out of income earned in 1937. If statutes of that kind were generally passed, it would be impossible for the business man to budget his costs in advance.

It is not suggested that statutes of the kind mentioned in the example cited above have yet been passed in Canada. But taxation legislation with retroactive effect has on more than one occasion been passed, the net result of which has been to increase the total of taxes payable with respect to a year already passed. Well-known examples of this are to be found in recent amendments to the Dominion Income War Tax Act and to two Ontario statutes, The Corporations Tax Act and the Income Tax Act of Ontario, 1936:



1. Income War Tax Act. The Dominion statute 23-24 Geo. V, chap. 14, which was assented to on March 30th., 1933, and which amended the Income War Tax Act, provided in its section 10 that "It is hereby declared and enacted that the provisions of the Income War Tax Act shall be read and construed as if the amendments enacted by sections one, two and three of this Act had been contained therein since the fifteenth day of June, 1926, and the said Income War Tax Act as amended shall apply to the income of the 1925 taxation period and fiscal periods ending in 1925 and all subsequent periods. Sections four, five, six and seven of this Act shall apply to the income of the 1932 taxation period and fiscal periods ending in 1932 and all subsequent periods. Section eight shall apply to the income of the 1917 taxation period and fiscal periods ending therein and all subsequent periods." Section 8, to which reference is made in this last sentence, substituted a new section 55 in the original Act reading, "Notwithstanding any prior assessment, or if no assessment has been made, the taxpayer shall continue to be liable for any tax and to be assessed therefor and the Minister may at any time assess, reassess or make additional assessment upon any person for tax, interest and penalties."

THE CHAIRMAN: Do the sections of the Income War Tax Act, 1933, to which you refer, increase the tax, or are they matters of administration? I refer to the section which says: "It is hereby declared and enacted that the provisions of the Income War Tax Act shall be read and construed as if the amendments enacted by sections one,



two and three of this Act had been contained therein since the fifteenth day of June, 1926."

MR. MACDONNELL: Some of them provide for increases, others are administrative.

THE CHAIRMAN: I can understand an administrative statute being retroactive. Whether it is sound or unsound I express no opinion. But I would be surprised to find an Act passed in 1933 made retroactive to 1926, if it actually increased the amount of taxation which should be paid by the persons taxed from 1926 on.

MR. MACDONNELL: May I put in a memorandum in that regard, Mr. Chairman?

THE CHAIRMAN: Yes, if it touches that point.

MR. MACDONNELL: Yes. I continue with the brief:

"Retroactive provisions somewhat similar in effect will be found in the statutes 24-25 Geo. V, chap. 55, 25-26 Geo. V, chap. 40, and 1 Edward VIII. chap. 38, all of which amended the Dominion Income War Tax Act. The first amending statute mentioned was assented to on July 3rd., 1934, but some of its sections were made applicable to income of the 1933 taxation period and fiscal periods ending therein. The second example mentioned was assented to on June 28th, 1935, but some of its sections were made applicable to income of the 1934 taxation period and fiscal periods ending therein, and one section was to come into force on January 1st, 1935. The third statute mentioned was assented to on June 23rd., 1936. Certain sections, however, were made applicable to income of the year 1935 and fiscal periods ending therein; certain others to income and gifts of the year 1936 and fiscal periods ending therein.





2. The Corporations Tax Act. The Corporations Tax Amendment Act, 1935, of Ontario was assented to on April 18th., 1935, and took effect from January 1st., 1935. The new section 3 added to the original Act by this amending statute stated that companies having their head office or other offices in Ontario or holding assets in Ontario should be taxable where the original Act had simply made liable companies transacting business in Ontario under their own names or through an agent or otherwise."

THE CHAIRMAN: Does the Ontario Act to which you refer apply only to the taxation period of the year 1935 to date?

MR. MACDONNELL: It took effect from the 1st. January, 1935, yes.

THE CHAIRMAN: It was passed in April. Whether it is good legislation or not, I think it is a very common practice in taxation statutes, where they impose an additional tax, to make it apply to the current year in which the legislation is passed. In that case it did not go back; it applied only to the year in which taxation was passed.

MR. MACDONNELL: Yes, that is true. The point about that is in the next sentence, which reads as follows:

"The new section 3 added to the original act by this amending statute stated that companies having their head office or other offices in Ontario or holding assets in Ontario should be taxable where the original act had simply made liable companies transacting business in Ontario under their own names or through an agent or otherwise.



THE CHAIRMAN: That would not be the retroactive complaint. They were enlarging the scope of the act by bringing new companies under it.

MR. MACDONNELL: Yes. I continue with the brief.

"Other examples of retroactive taxation legislation in Ontario will be found in The Corporations Tax Amendment Act, 1937, which was assented to on March 8th., 1937, and in part was made applicable to all fiscal years ending in 1935 and in part to fiscal years ending in 1936 and in The Income Tax Amendment Act, 1937, which was assented to on March 8th., 1937, but was stated to affect, in some of its amendments, income for the year 1935 and, in some other of its amendments, income for the year 1936."

THE CHAIRMAN: When you present your memorandum with reference to the group of sections enumerated would you give us a reference to the acts and sections where you say taxation was increased and made retroactive.

MR. MACDONNELL: Yes.

THE CHAIRMAN: I think there is an important difference between an administrative change that enables a government to administer a law more effectively and the imposition of a new tax and the making of it retroactive.

MR. MACDONNELL: Yes.

THE CHAIRMAN: I should like to see the references with regard to that.

MR. MACDONNELL: Very well, my Lord. I continue with the brief:

#### ABUSE OF PROVINCIAL LICENSING POWER.

"There is a growing tendency on the part of the provinces, in their quest for new revenue, so to increase the license fees charged under licensing statutes that they become substantial, and in some



that they become substantial, and in some cases even onerous, taxes. This, it is submitted, is objectionable. A licensing statute should, we submit, be regulatory and not revenue-producing; in other words, the charge made for the license should be nominal in amount and merely sufficient to defray the cost of administration."

THE CHAIRMAN: Are you against the provision of the B.N.A. Act which deals with that? Section 92 -- I have forgotten the sub-section -- deals with licenses issued by the provinces. I think it expressly states they are for the raising of revenue.

MR. MACDONNELL: Yes, that is so, Mr. Chairman. I have that in mind. That was one of the sources of revenue available to the provinces. We may have stressed it too much, but our point is that it has gone even farther than was contemplated in 1867. I believe some of the examples we give support that contention. The brief continues:

"Two objections, among others, may be made to the practice of departing from this principle, and seeking to raise substantial revenue by means of license fees. In the first place, it tends to discourage the establishment of new enterprises from which, if they were established, greater revenue would be likely to be secured in the ordinary course than is realized from the high license fees."

I admit that is controversial.

COMMISSIONER SIROIS: You admit that that might be controversial?

MR. MACDONNELL: Yes, the point about the imposition of a license fee discouraging the starting of new industries





It seems to me there are cases where it might be argued that way.

COMMISSIONER SIROIS: You say it is ultra vires.

MR. MACDONNELL: The second part.

COMMISSIONER SIROIS: That is going pretty far.

MR. MACDONNELL: I am thinking of certain Privy Council decisions, one, at least, an Alberta case, where my understanding of the judgment is that if the license fee had been so small that there was no reason to suppose the person on whom it was actually imposed by the statute would pass it on, it would come within the category of direct legislation. But our suggestion here is that where these so-called license fees become so large it can hardly be maintained that the persons on whom such large fees are imposed by the statute will not pass them on.

THE CHAIRMAN: The section of the B.N.A. Act that I had in mind was sub-section 9 of section 92 which states the provinces have the right to enact legislation with respect to: "Shop, saloon, tavern, auctioneer and other licenses in order to the raising of a revenue for provincial, local or municipal purposes." Your point, I take it is this: If the amount of the licence fee is such that there can be no reasonable probability of the licensee paying it; that he must, from the nature of the fee, pass it on to his customers, then you contend it ceases to fall within that section and is ultra vires, as it is indirect taxation?

MR. MACDONNELL: That is our point, Mr. Chairman.

THE CHAIRMAN: If you have the reference to that British Columbia case to which you referred a moment ago you might give it to us.

MR. MACDONNELL: Yes, I will. It is a bottler's case.



THE CHAIRMAN: I beg your pardon.

MR. MACDONNELL: What was involved was a licence fee on bottlers. The brief continues:

"In the second place, it is submitted that when license fees are made as high as in some of the cases cited hereunder, the legislation imposing them is ultra vires of the provinces as imposing what amounts to an indirect tax -- indirect because there cannot be said to be any expectation that such large amounts will actually be paid by the industries which are expressly stated to be liable to pay them.

Some examples are as follows:

1. The Fuel Oil Tax Act, 1936, of Alberta, requiring the payment by refineries of a so-called license fee ranging from \$100 to \$10,000 according to the refining capacity.

2. The Gasoline Sales Act of New Brunswick, requiring the payment by wholesalers of a so-called license fee ranging from \$100 to \$2,000 according to the gallonage sold.

3. The Gasoline Licensing Act, 1934, of Nova Scotia, requiring the payment of a license fee ranging from \$250 to \$7,500 according to the gallonage sold.

4. Orders made under The Licensing of Trades and Businesses Act, 1937, of Alberta require the payment of the following so-called license fees:

(a) flour milling -- from \$5 to \$1,000, according to the capacity of each plant.

(b) meat packing -- from \$5 to \$1,000, according to the gross sales of the previous year.

This brings us to a point that perhaps is not directly relevant here, but which none the less



deserves attention. As has just been said the provinces in their quest for revenue have used the licensing power granted them by section 92 of the British North America Act as a taxing power and under the guise of licenses have in fact imposed taxation which leading constitutional authorities agree in regarding as indirect and unconstitutional. It may be said that the proper remedy against statutes which are regarded as unconstitutional on this, or on other grounds, is to be had by recourse to the courts. But in practice this remedy has proved inadequate, so far as taxation statutes are concerned. It has been the experience of members of this Association on more than one occasion that a successful attack on the constitutionality of a taxation statute is immediately followed by new legislation imposing exactly the same tax, but in slightly different form. Therefore, unless the taxpayer is willing to go to the courts over and over again, he is in exactly the same position as before in spite of his substantial expenditure of time and money. Our submission is that it is no justification for the passing by the provinces of taxing legislation of doubtful validity, to say that industrial taxpayers have their remedy in the courts."

COMMISSIONER ANGUS: Is this your argument: The provinces should have wider taxation powers than at present so that they would not have to resort to this system of taxation.

MR. MACDONNELL: That is not the solution we would propose.

COMMISSIONER ANGUS: Or that they should be forced





to cut down expenditures.

MR. MACDONNELL: Yes, we would certainly go for the second rather than for the first.

(Page 2360 follows)



THE CHAIRMAN: It would be quite clear, I should think, that the province could not impose a licence fee which in effect would be giving them the power of indirect taxation.

MR. MACDONNELL: That is so.

THE CHAIRMAN: Because that would be contrary to the provisions of the Act. The question is, where does the licence fee end and where does indirect taxation begin? I should not think it would be always easy to decide that.

MR. MACDONNELL: We realize that, Mr. Chairman.  
The next section reads:

"Absence of Finality in Settlement of Tax Liability.

It goes without saying that for sound accounting and business reasons taxpayers attach the greatest importance to finality in the matter of payment of taxes. In this regard, the present system leaves much to be desired in that many of our taxation acts contain provisions similar to section 55 of the Dominion Income War Tax Act to which reference has already been made:

'Notwithstanding any prior assessment, or if no assessment has been made, the taxpayer shall continue to be liable for any tax and be assessed therefor, and the Minister may at any time assess, re-assess or make additional assessments upon any person for taxes, interest and penalties.'

THE CHAIRMAN: These provisions with respect to finality are, I believe, in most of our income tax acts. Are there similar provisions in other countries in their income and corporation tax systems, or have we developed this as a specialty in our own Canadian taxation laws?

MR. MACDONNELL: I believe that we have gone much



further than they have in England, for example. Reference is made later on to the way in which they manage this sort of thing in England. As regards the United States, I am not quite sure, but I believe that we have gone further than even they have gone. We are not attempting, however, to put this forward as peculiar to Canada.

THE CHAIRMAN: What occurred to me was this. If other countries have found these provisions necessary -- I do not know whether they have or not -- if other governments have had to resort to such legislative provisions, then there would seem to be some justification. If on the other hand the method does not prevail in any other jurisdiction, Canadian business might argue that there is no sound reason why the principle should be applied to it.

MR. MACDONNELL: Later on we describe the procedure in England:

" This means that no finality exists in the matter of settlement of tax liability. Examples of this lack of finality are:

1. Two or three years or more after a return has been filed in good faith it is possible for a government auditor to find that a mistake has been made in the return and thereupon interest and penalties become payable.

2. A delay of perhaps three years in the government's audit which, be it noted, is entirely a matter of the administrative practice of the taxing authority, will increase appreciably the amount of the interest and penalties payable by the taxpayer. In these circumstances, it seems less than fair to penalize the taxpayer by





" charging interest up to the time it suits the government to complete its audit. It goes without saying that no interest is paid by the government on any over-payment of tax which may be disclosed.

As a result, the view is strongly and unanimously held by Canadian industrialists that the present system of government auditing should be radically overhauled with a view to removing inequities of the kind described in the two preceding examples and providing, in the absence of fraud, for some measure of finality so far as the taxpayer's liability is concerned."

THE CHAIRMAN: From the administrative point of view, what provision should there be in an Act dealing with the situation in the case of fraud? How could the government discover the fraud unless it made an investigation of the books, accounts and so on? Would it not be necessary in any legislation to have a provision that settlement at least should not prevent the government from making that complete investigation and going back as far as they saw fit? Otherwise the government would in all human probability be unable to establish fraud. They could not do so unless they were able to check the books.

MR. MACDONNELL: There is obviously a difficulty there. All I can say is that in England they have found in practise that if they give a final settlement the loss of revenue from fraud and so on is not sufficient to offset the saving in expense to the government and the saving, of course, in expense and annoyance to taxpayers.

THE CHAIRMAN: How do they deal with cases of fraud in Great Britain? I assume they can open up any taxation



in establishing fraud.

MR. MACDONNELL: Yes.

THE CHAIRMAN: It must be so.

MR. MACDONNELL: Oh yes.

THE CHAIRMAN: Are there any administrative provisions in the English taxation statutes that permit the government to investigate the books and accounts of the person with respect to whom they claim that there has been fraud in a tax return?

MR. MACDONNELL: There are such provisions, yes.

THE CHAIRMAN: Your representation, then, would not go to the extent of recommending that there should not be administrative provisions that would enable the government to investigate the books and accounts of any firm if they had reason to suspect fraud?

MR. MACDONNELL: Quite so.

THE CHAIRMAN: There should be complete investigation, but if the investigation did not disclose actual fraud but only errors there would be no recovery?

MR. MACDONNELL: That is the practise, I understand.

" In this connection, we are advised that in Great Britain (in the case of nearly all except the very small firms) government inspectors settle the amount of the liability with the taxpayer's professional accountant, often before the return is filed, and no attempt is made to carry out detailed audits of the books of all taxpayers. Thus, the final collection of tax is carried out more promptly and there appears to be no evidence that revenue is lost through such procedure. If there is reason for such a method in Great Britain with a single taxing authority, a fortiori, it



"should be sound in Canada with ten taxing authorities.

Cases are not unknown of assessments being arbitrarily reopened and records re-examined for ten and twelve years back. Such procedure is, of course, fully justified if there are reasonable grounds for suspecting fraud, but otherwise it is submitted it is inequitable to industry as it is expensive and inefficient from the point of view of administration.

In this connection, the following excerpt from a letter dated the 9th December, 1937, from a large company reports an experience which is all too common.

' The work involved in fulfilling the duplicated taxation demands of governments today is, in many cases, an operation involving far greater cost to the taxpayer than the amount of the tax ultimately to be paid. The demands of the provincial government of .....during this past year have involved, in our case, detailed research through the company's records back to 1925 inclusive, correspondence to the extent of scores of letters, the extra employment of auditors, accountants and lawyers. Attempts to settle the matter simply led only to the facing of tax payments so excessive as to force the above-outlined labour and expense which exceeded, as has been said, the amount of the tax ultimately demanded.'

THE CHAIRMAN: You say that this is all too common. Are you advised that there are numerous cases of this character?

MR. MACDONNELL. Yes, undoubtedly.





THE CHAIRMAN: I quite understand that you do not care to give the name of the government or of the firm. Is there any objection to letting the Commission have the name of the firm?

MR. MACDONNELL: None whatever.

THE CHAIRMAN: Confidentially.

MR. MACDONNELL: Yes.

" Apart from the question of finality, the present system involves very great expense both to governments and taxpayers, much of which is entirely unnecessary. Generally speaking, so far as auditing and inspection is concerned, the various taxing authorities run on parallel lines, which never meet except when a number of auditors from different jurisdictions meet in the offices of some taxpayer doing business in their various territories. One such company recently had seven auditors in its offices at the same time -- one dominion and six provincial. It is submitted that from the point of view both of efficiency and economy this amounts almost to a reductio ad absurdum.

From what has been said it will be clear that the ideal system of taxation from industry's point of view would be one providing for the raising of the necessary revenue by means of a minimum number of taxes collected by a minimum number of agencies, preferably one.

If it should be found impracticable to make any real reduction in the number of taxes presently imposed or in the number of separate taxing authorities, it is respectfully urged that the



"following recommendations should be given sympathetic consideration:

1.. That there should be only one income tax on all business concerns imposed and collected by the dominion, in which the provinces would share on a uniform basis of sales actually made in each provincial jurisdiction as compared with total sales."

THE CHAIRMAN: That would be simple work, there would be no difficulty in checking the books of the manufacturers and the sales made in each province.

MR. MACDONNELL: We think not, there would be no real difficulty.

THE CHAIRMAN: You think that if the dominion imposed a tax, distributed in accordance with the sales made in each province, every province would receive the benefit of the business done by the corporation in the province and that it would be equitable to all provinces?

MR. MACDONNELL: Yes Mr. Chairman, we think so.

" 2. In the event of the recommendation stated in the preceding paragraph being found impracticable, that the dominion and provincial income tax system should be standardized and coordinated so that only one annual return, one collection agency and one audit is required, each province retaining, however, the right to fix its own rate of taxation.

3. That the amount of income tax paid to the dominion should be allowed as a deduction from taxable income for purposes of all provincial income taxation or vice versa.

4. That, if taxes on capital are to be imposed, the various provinces doing so should standardize and coordinate their systems so that only one annual return one collection agency and one audit will be required,



"the division between the provinces being made on a uniform basis of the sales actually made in each jurisdiction.

5. That there should be a deduction from paid-up capital for all capital reinvested in shares, bonds or other obligations.

6. That the right of governments to re-open income, capital or other tax assessments should be limited to a period of two years from the year in which the assessment was made, cases of fraud alone being excepted.

7. That the allowance of depreciation for income tax purposes should include "obsolescence" with a view to improving the efficiency of plants and, at the same time, stimulating building and engineering industries. "

THE CHAIRMAN: Is obsolescence recognized in any of the dominion or provincial acts?

MR. MACDONNELL: No, it is not.

THE CHAIRMAN: Is it in other jurisdictions?

MR. MACDONNELL: Yes, it is in England and it is made use of there. It is claimed for it that it has the effect, as suggested here, of stimulating the building and engineering industries. What they do in England, as I understand is this. Where a firm has had a large machine, for example, which has not been used long enough to be worn out and is not fully depreciated, but which has become obsolete from the point of view of efficient operation and should be scrapped and replaced, the company is allowed as a deduction the difference between the depreciated value of the machine and the price they get for it on selling it. That is to say, a machine which originally cost \$10,000 and has been used five years





might last another ten years, but the company may want to replace it. The plant will be more efficient if that machine is replaced. Its depreciated value is \$5,000 and the company can get only \$2,500 for it. They are allowed the difference between \$5,000 and \$2,500 as a deduction for income tax purposes.

THE CHAIRMAN: In arriving at the profits for the year they are allowed to charge that against the year's profits before the amount for taxation is taken.

MR. MACDON ELL: Yes.

"8. That the principle of retroactive taxation is unsound and should be abolished."

We mean there, of course, retroactive in the sense of increasing taxes.

"9. That there should be no delegation to the executive or departmental authority of power to fix rates of tax or to determine the basis of liability.

10. That all orders, regulations and rulings made by executive and departmental authority should be regularly published and made available to taxpayers and should have no force or effect until so published."

THE CHAIRMAN: Are there any of the statutes in the appendix which you think you should draw our attention to particularly?

MR. MACDONNELL: I do not know that there are Mr. Chairman. The list is a very lengthy one. It is not of course suggested that all of these taxing and licensing statutes affect all manufacturers.

THE CHAIRMAN: I understand that.

MR. MACDONNELL: We thought it might be useful to compile a more or less complete list of them.



THE CHAIRMAN: They are very convenient for reference.

MR. ST. LAURENT: There are two or three points which it may be useful to the Commission to have a little more clearly put before them. In your first recommendation you say:

" That there should be only one income tax on all business concerns imposed and collected by the dominion, in which the provinces would share on a uniform basis of sales actually made in each provincial jurisdiction as compared with total sales."

Of course, there are a large number of sales made for export purposes. How do you think those should be dealt with for the purpose of this distribution?

MR. MACDONNELL: I should think they would certainly have to be taken into account.

MR. ST. LAURENT: Yes, but where should they come in the calculation? Would your association think that the province in which the head office was situated should have the whole benefit, or should it be apportioned generally to all the provinces in distributing the income?

MR. MACDONNELL: I have no definite instructions in that regard.

MR. ST. LAURENT: The association has not considered that feature.

MR. MACDONNELL: Not in detail, no. We quite agree that export sales would have to be taken into account.

MR. ST. LAURENT: This is not the recommendation -- that the whole of the income tax be distributed in proportion to the sales made in each province? The recommendation would only go so far as to mean that the province would be supposed to get the benefit of the



province would be supposed to get the benefit of the business done with its own citizens.

MR. MACDONNELL: Yes. In other words, the yardstick proposed as among the various Canadian jurisdictions is the amount of business done in each of them.

MR. ST. LAURENT: And you have not considered whether that yardstick would apply to income derived from export business, or not?

MR. MACDONNELL: We have not worked that out. Our point is that as among the various Canadian jurisdictions the yardstick should be sales actually made in the various provinces.

MR. ST. LAURENT: On page 4 you have something to say with regard to discrimination. I do not quite appreciate the force of it. You make this statement.

"Gallionage tax on retail sales of gasoline ranges in the various provinces from 6 cents to 10 cents per gallon and represents an addition to consumer prices of upwards of 50 per cent." That is so, but how does that bring about any discrimination between manufacturers? I do not quite appreciate that.

MR. MACDONNELL: Our point there is that this tax is imposed on this particular industry for a special purpose; that is to say, the revenue from it is to be used for the benefit of the motoring public. But that revenue is used for other purposes as well. In other words, you single out a particular industry --

MR. ST. LAURENT: Oh, yes.

MR. MACDONNELL: -- and you impose a special burden on that industry, which is not imposed upon others.

MR. ST. LAURENT: But it has been found a very convenient method of raising revenue. Is there any special





objection to there being a difference in the amount of gallonage tax as between one province and another, beyond the fact that it bears more heavily upon the citizens of the province in which the higher tax is levied?

MR. MACDONNELL: Our point is that this particular industry has been singled out and a heavy burden placed upon it.

MR. ST.LAURENT: But this is given as an example of discriminatory taxation where there was no tax on a competitive product. As far as the gasoline tax is concerned, does your association show any special objection to there being that inequality in the various provinces?

MR. MACDONNELL: No.

MR. ST.LAURENT: I did not realize that there was one, and I am merely asking for information.

MR. MACDONNELL: No, that point is not raised.

MR. ST.LAURENT: With respect to this delegation of authority to executive officers to fix the amount of taxes, is there anything involved beyond the departure from the principle of taxation by representation? Is there anything more inconvenient in the amount being fixed by a Cabinet or by a Minister or an official than in having it fixed in open discussion in legislative assemblies?

MR. MACDONNELL: That is our point, really, that the amount of taxation should be fixed by the legislature, where the parties affected have a chance to be heard. It comes within the purview of the legislature rather than of the executive.

MR. ST.LAURENT: In other words, it should be done in open discussion in the Assembly where legislation is enacted?



MR. MACDONNELL: Yes.

MR. ST.LAURENT: And not by regulation arrived at in Cabinet meetings.

MR. MACDONNELL: That is our point.

MR. ST.LAURENT: Have the members of your association found that there was in practise anything seriously inconvenient in having the amounts of taxes fixed in the manner you complain of?

MR. MACDONNELL: No, we are dealing simply with the principle.

MR. ST.LAURENT: These recommendations, I suppose, are alternative. No.3 on page 8 is alternative to No.1. If there were only one income tax it would naturally proceed on the basis of taxing the whole income without deducting any portion before arriving at the second part of the tax.

MR. MACDONNELL: Yes.

MR. ST.LAURENT: So that that would be only an alternative if the single income tax were not adopted.

COMMISSIONER ANGUS. Does No.3 apply only to income tax on business concerns?

MR. MACDONNELL. On business concerns.

MR. ST.LAURENT: The recommendation with respect to retroactive taxation is only as to the amount of the tax and not as to the administrative features?

MR. MACDONNELL: That is so, yes.

THE CHAIRMAN: The next submission deals with old age pensions and unemployment insurance.

EXHIBIT No.88: Old age pensions and Unemployment Insurance.

# "OLD AGE PENSIONS AND UNEMPLOYMENT INSURANCE.

MR. MACDONNELL: Mr. Chairman, the submission of the Canadian Manufacturers' Association on this subject



is as follows.

" In addition to the many taxes which have already been mentioned, industry is financially affected, directly and indirectly, by the various forms of social security legislation, actual or proposed, such as workmen's compensations, old age pensions, mothers' allowances, unemployment insurance and health insurance. Of these it is only proposed to deal at any length with two, one actual, old age pensions, and one proposed unemployment insurance. As regards workmen's compensation, suffice to say that however sound from the social and humanitarian point of view, the payment by industry of some \$16,000,000.00 per annum, in compensation, constitutes an economic factor of major importance to industry. So far as jurisdiction is concerned, there appears no reason to suggest any change. As regards health insurance, however, it is submitted that, if and when the time comes for its introduction, it should be on a national basis and under national supervision."

THE CHAIRMAN: Dealing with health insurance, you say that it should be on a national basis and under national supervision. Do you discuss anywhere your reasons for that conclusion?

MR. MACDONNELL: No.

THE CHAIRMAN: Will you then state briefly why in your opinion health insurance should be on this basis?

MR. MACDONNELL: The view of the association is that if there are several provincial schemes there will be overlapping and needless expense and inefficiency. We are of the opinion, both for administrative reasons and from the point of view of public health itself, it is





essentially a dominion matter, in other words, in dealing with a matter like public health, you can not divide a country into compartments. The subject is one and indivisible, and unless you had a central national scheme you would be continually running into overlapping, conflict of authority and similar difficulties. That really is our general idea.

COMMISSIONER ANGUS: One reason frequently given with respect to the British Columbian health insurance scheme was that the method of finance involved a contribution from employers, and it was said that if such a contribution were made in one province it would create a handicap upon the manufacturers of that province in comparison with the manufacturers in other parts of the country where health insurance did not exist. Was that the reason that prevailed with your association?

MR. MACDONNELL: There is soundness in that contention, sir, and as a matter of fact it is one reason that I should have mentioned.

" This brings us to old age pensions and unemployment insurance and the following views are respectfully submitted for consideration.

#### OLD AGE PENSIONS.

The total annual cost of paying pensions under the Old Age Pensions Act to the 163,103 pensioners presently eligible, is according to the latest figures available, \$33,716,000, of which 75 per cent or \$25,827,000 is paid by the dominion.

This figure, in the opinion of experts, is likely to increase during next twenty or twenty-five years due to the effect of the large immigration movement of the years 1902 to 1914 on the age distribution of the population as well as the



"influence of the improvements in sanitation and health conditions which tend to increase the average age at which death takes place. It is entirely likely that in a few years' time, the annual cost will reach \$40,000,000.00.

Apart from the fact that the present system is entirely non-contributory the amount of the cost is due, in no small degree, to the absence of any requirement that near relatives able to do so should contribute to the support of the aged indigent. It is estimated that if the act were amended in this sense, at least several million dollars would be saved annually and it is reassuring to know that there is some prospect of this being done."

THE CHAIRMAN: Is there any old age pension system under which that provision is made?

MR. MACDONNELL: Oh yes, in England, for example and in a number of the continental schemes.

THE CHAIRMAN: Will you come to that later? If not, will you give us a reference to where we can find provisions of that kind?

MR. MACDONNELL: I will do that.

COMMISSIONER DAFOE: The question of the degree of relationship would have to be determined.

MR. MACDONNELL: Yes.

" Such a change would not, however, it is submitted, go to the root of the matter. What is really required is that the system should be made contributory, and that instead of only the deserving poor being pensioned, everyone should be eligible regardless of means. In other words, it is submitted that the only sound system of old age



"pensions is not the non-contributory, deserving-poor but the contributory, "all-in" type.

This view is borne out, it is submitted, by the experience of the great majority of the countries which have inaugurated old age pension schemes since Germany led the way some 50 years ago. Germany, for example, began with a contributory all-in system and has adhered to it ever since. In the second place, a number of countries which began with the non-contributory, deserving poor system have found it wanting and have turned to the contributory, "all-in" system."

THE CHAIRMAN: Can you give us the names of the ten countries?

MR. MACDONNELL: May I put those in later? I have not got them here.

" Cases in point are Great Britain and Belgium. In the third place, it is significant that with the exception of Uruguay (1919), Norway (1923) and Canada, no country in the last thirty years has adopted the non-contributory, deserving-poor system, while ten countries, after consideration of the experience of their predecessors in this field, have adopted the contributory, all-in system

The reasons given for the failure of the non-contributory, deserving poor type of legislation are that it puts a premium on (1) thriftlessness and (2) fraud. Before the passing of the first British Old Age Pension Act in 1908, Charles Booth, the well known English sociologist, contended in his work entitled "Pauperization and Old Age", that old age pensions must be open to all citizens over a





"fixed age, regardless of their poverty or means, since, he predicted, 'to select the poor is to pauperize.'

After twenty years' practical experience of the results of 'selecting the poor', a second distinguished English writer commented: 'the problem of pauperism not only remains unsolved but appears to be more acute than at any previous period of our history with the possible exception of the post-Napoleonic period.'

As a matter of fact, after eleven years (1908-1919) experience of the non-contributory system, it was strongly recommended, by a Parliamentary Committee set up in England to investigate, that in order to prevent the old age pension system from becoming an incentive to both improvidence and fraud, 'the means qualification should be entirely abolished and the pension given to all citizens at the age of 70.' Attempts were made in 1923 and 1924 to carry out this recommendation -- that is, in the words of the speech from the throne in 1925, 'to deal with the discouragement of thrift involved in the present 'means' limitation to the grant of old age pensions.'

That these attempts proved unsuccessful is said to have been due in part to the alarm of the general public at the great increase of the already heavy financial burden and in part, significantly, to the fact that the two million or more of votes wielded by the pensioners and their kin prevented amendments designed to guard against thriftlessness and fraud. Eventually, in 1925, a radical amendment was passed in the shape of an old age insurance act applying to



"all, regardless of means, whereby pensions were made payable at the age of 65 to everybody, provided they had been insured for five years and had paid at least 104 contributions. The point is, of course, that after some 17 years experience of the non-contributory system, payable only to the so-called deserving poor, Great Britain saw fit to turn to the contributory, i.e., the insurance, principle, while instead of continuing to pension only the worthy poor, she adopted the principle of drawing no distinction between the poor and the non-poor but pensioning both alike.

To sum up, it may safely be said that the principle of 'selecting the poor' has been proved to be unsound. It has undoubtedly been found to encourage thriftlessness and fraud. Evidence abounds, moreover, that it saps that spirit of self-reliance and independence which is so essential to the social and political well-being of any community. That such a system still persists is no doubt due to the fact that the alternative, viz., pensioning everyone, is regarded as too expensive. That it would prove even more expensive than the deserving poor system (which itself has shown a tendency to cost very much more than was anticipated) must, of course, be admitted -- except on one condition, viz., that the contributory or insurance principle is adopted. The combination of this principle with the 'all-in' system serves, it is submitted, the triple purpose of keeping down the expense, eliminating the incentive to both thriftlessness and fraud and stimulating, instead of sapping, self-reliance and independence.



THE CHAIRMAN: You say:

It has undoubtedly been found to encourage thriftlessness and fraud. Evidence abounds, moreover, that it saps that spirit of self-reliance and independence which is so essential to the social and political well-being of any community."

Are you speaking of any investigation which your association has made, or are you stating a general conclusion which you base upon various reports with regard to the operation of these systems?

MR. MACDONNELL: It is a general conclusion based mainly upon British experience and investigations that have been made there.

That Canadian conditions are sufficiently different from conditions elsewhere to justify the adoption of a system which has been proved by actual experience to be unsound cannot, it is submitted, be maintained. It is, therefore, recommended that immediate steps should be taken to abandon the non-contributory, deserving poor system and adopt the contributory, all-in system of old age pensions. On the financial side, it is suggested that any state contribution which might be considered desirable should be made by the Dominion, thus relieving the provinces of a burden which under the present system is likely to amount during the next 20 years to some \$10,000,000 per annum."

(At 1 o'clock the Commission took recess.)

Page 2385 follows.





The Commission resumed at 2.30 p.m.

THE CHAIRMAN: All right, Mr. Macdonnell.

MR. MACDONNELL: I was reading, Mr. Chairman, from page 2 of part III, and was about to deal with "State Old Age Pensions and Industrial Pensions".

COMMISSIONER ANGUS: Mr. Macdonnell, are you thinking of a contributory plan as being substantially self-supporting?

MR. MACDONNELL: No, I think what we contemplated is that the State would make a contribution as well as the employees and the employers. That is the sort of Act we had in mind.

COMMISSIONER ANGUS: In the case of having a contributory plan under the State, side by side with these individual pension plans of firms for their aged employees, would there be any danger of a man falling down between two stools, supposing he was dismissed or that he lost his employment?

MR. MACDONNELL: What we expect would be done would be that the private industrial pension scheme would be absolutely separate from and additional to the other.

COMMISSIONER ANGUS: He would contribute to two pensions and get two pensions?

MR. MACDONNELL: Yes.

THE CHAIRMAN: Has any computation been made as to what the national cost might be of such a scheme as this?

MR. MACDONNELL: I am sorry to say, Mr. Chairman, that we have no estimate. I have never heard of an estimate being made.

THE CHAIRMAN: You speak of discriminating against the manufacturer who provides a pension plan for his



employees, Mr. Macdonnell. Would it be fair to say that most employers who have such a plan believe that it is not only in the interest of the employee but also in their own interest to do it?

MR. MACDONNELL: Yes, I think that is true.

THE CHAIRMAN: I should think it is in the interest of both.

MR. MACDONNELL: Yes.

THE CHAIRMAN: The employer is not wholly moved by benevolent considerations; but at least, it is in the interest of his own business?

MR. MACDONNELL: That is quite true.

THE CHAIRMAN: Well, then, how is he discriminated against by the existing Old Age Pensions Act? He would do what he is doing regardless of what other employers are doing because he thinks it is sound business and a wise thing to do. I do not just see how he is discriminated against by the present system.

MR. MACDONNELL: Two employers contribute equally in taxes out of which the State pensions are paid.

THE CHAIRMAN: Yes.

MR. MACDONNELL: But Number 1 employer, who is paying his aged employees a pension, we will say, of \$200 finds that that is deducted from the pension to which his employee is entitled under the State scheme; whereas the employer next door, who has not a pension scheme, knows that his aged employees are entitled to the full State pension. Out point is simply this, that as between these two employers there is not complete equity.

THE CHAIRMAN: If there were no old age pension scheme at all, Mr. Macdonnell, that situation would exist because one employer would be contributing to the



pensioning of his employees while the other would not.

MR. MACDONNELL: Yes.

THE CHAIRMAN: The Old Age pension plan comes in, and both contribute to it through the general taxation.

MR. MACDONNELL: Yes.

THE CHAIRMAN: You may say it is not equitable that the amount of pension which the employee receives through his firm should be deducted from his State pension, but for the moment I do not just see how it introduces any element of discrimination.

MR. MACDONNELL: Well, I suggest that as between those two employers there is inequity, amounting to a certain discrimination. One thinks of two aged employees, one with an employer who has a pension scheme, and the other with an employer who has not. These two aged employees both apply for the State pension. The employee of the employer who has a pension scheme finds that he is going to get only, we will say, \$100 a year of State pension, and the aged employee next door is going to get the maximum of \$240.

THE CHAIRMAN: Well, he might say that he is being discriminated against. Is it not the employee that is rather discriminated against? He is equally entitled with the employee of the other firm to get the State pension, but because he is getting a pension from his own firm he is not entitled to the full State pension. But the point is probably not important, Mr. Macdonnell.

MR. MACDONNELL: The most serious discrimination is as between the two employees.

COMMISSIONER DAFOE: There is the fact that nearly all these schemes are contributory on the part of the employees, and the employee of a firm that has a pension scheme, by creating his own pension through his contribu-





tions, eliminates his chance of getting the State pension which perhaps his neighbour gets without making any contribution. That is a fact which I know of my own knowledge operates against the bringing in of pension schemes in industrial establishments. It is one more hurdle to get over. The employee says, "Why should I contribute to that scheme when I can get a pension from the State? It will not mean that I shall get anything additional because I make this contribution now to my employers' pension fund."

MR. MACDONNELL: Quite so. I now come to the subject of Unemployment Insurance:

#### UNEMPLOYMENT INSURANCE

" Any unemployment insurance scheme which might be established, following removal of the constitutional difficulties by agreement between the Dominion and the provinces, would be another form of taxation on industry. In addition to whatever direct contribution was required from them, industrial employers would of course be obliged as taxpayers to pay their share also of the cost of administration and of the state contribution.

It should be stated at once that, if there is to be an unemployment insurance scheme, the point of view of this Association is that it should be nation-wide. As this appears to be generally agreed, there is no need to labour the reasons for it. Nor is it intended to discuss unemployment insurance from the point of view of public policy, which we understand is outside the scope of the Commission's terms of reference, beyond repeating our frequently expressed view that any scheme



"introduced should be strictly contributory. Our point is rather this, that if unemployment insurance is to be introduced and the Dominion is to assume financial responsibility it is well that most careful study should be made of the extent of the financial responsibility which the Dominion is thus assuming and of the extent to which an unemployment insurance scheme would relieve the Dominion of certain financial burdens which it now carries, notably, of course, the burden of relief.

As regards the cost to the state and to employers, it is, of course, impossible to say anything definite until the actual terms of the legislation are available. One advocate of unemployment insurance for Canada has calculated on the basis of an average of 140,000 unemployed and weekly benefits of \$7 per week for single, and \$16 per week for married men, that the cost would be approximately \$90,000,000 per annum. Another economist calculates on the basis of the British experience that the cost of such a scheme would be nearer \$150,000,000. As to which, if either, of these estimates is correct, no opinion is expressed. It will not, however, be disputed that the cost is certain to be high and certain to be hard to control. It may be pointed out that the cost under the British Act for the two latest years for which figures are available was some \$508,945,000 and \$493,930,000 respectively. While the population of the United Kingdom is some four times that of Canada, it is likely, having



"regard to the higher benefits which would presumably have to be paid under a Canadian scheme and the less efficient administration which must be anticipated, at any rate during the earlier years, that the cost of a comparable Canadian scheme, given similar conditions of unemployment, would be at least one-third that of the British scheme, that is, in the order of \$160,000,000 to \$165,000,000 annually. As has been said, the cost of administration of such a scheme in a country like Canada would undoubtedly be high. Owing to the great distances it would presumably be necessary to establish labour exchanges in all parts of the country even though in the less settled parts the amount of work required to be done might not be great. Moreover, the great distances would intensify the difficulty and the expense of carrying on such vital parts of the administration as the investigation of claims, the adjudication of appeals and the like. Under the British Act the cost of administration in the years 1926--1931 ranged from 11.6 per cent to 13.2 per cent of the net income of the unemployment insurance fund. The actuarial estimate of the cost of administration under the 1935 Canadian Act was "probably at least 15 per cent or even  $17\frac{1}{2}$  per cent of the gross real contributions."

THE CHAIRMAN: When the 1935 Act was introduced into the House, was there not some estimate given of the cost to the Government? I do not recall the facts, but I assume there would be some estimate given.





MR. MACDONNELL: I have gone carefully through the two actuarial reports made by Mr. Wolfenden and Mr. Watson, and I did not find any definite estimate of the costs.

THE CHAIRMAN: Did you look up the debates in the House of Commons to see if there was any estimate given?

MR. MACDONNELL: Yes, I did, and I did not find any clear-cut estimate.

THE CHAIRMAN: One would expect that the government would have an estimate before introducing the legislation.

MR. MACDONNELL: There was an estimate that the contributions would amount in a year to some \$42,000,000.

THE CHAIRMAN: The contributions?

MR. MACDONNELL: The contributions per year would amount to the sum of \$42,000,000. That is one estimate.

THE CHAIRMAN: The contributions of the Dominion government?

MR. MACDONNELL: Yes.

THE CHAIRMAN: These figures you are giving are the total cost?

MR. MACDONNELL: Yes.

THE CHAIRMAN: Thank you.

MR. MACDONNELL: I continue on page 3:

"As regards the question of the extent to which the establishment of an unemployment insurance scheme would relieve the Dominion of the burden of relief, it is respectfully submitted that the commonly-held notion that the introduction of an unemployment insurance scheme would at one stroke solve the problem of unemployment and relief, as we know it to-day, is a complete delusion. No insurance



"scheme based on actuarial lines would do more than take care for a strictly limited period of a strictly limited number of employees, and these, persons normally in fairly steady work.

The total annual contributions under the 1935 Canadian Act, calculated on the basis of the unemployment of the years 1922-1930, were estimated at \$42,000,000. Under the Act this sum, or a large proportion of it, would have been paid out in benefits to "stable" workers covered by the scheme, helping to tide them over intermittent periods of unemployment. But it may safely be said that not more than a very small proportion of these would be persons, who, but for such benefits, would be obliged to go on relief. If this is sound, the effect of such an unemployment insurance scheme would be infinitesimal, so far as reducing the cost of unemployment relief is concerned. While it is true that the payment of benefits under such a scheme as that laid down by the 1935 Canadian Act would have the effect of helping to maintain purchasing power and thereby maintain employment, against this must be set the fact that the withdrawal from industry of the substantial sums required would make it more difficult for industrial concerns to effect the necessary improvements and extensions in plant, and to compete with foreign industries both in the home market and abroad."

THE CHAIRMAN: So far as American industries are concerned, they would now be under their social insurance



legislation, and the same is true of British industries. In what countries would our industries be competing where there is not some form of social insurance at this time?

MR. MACDONNELL: There are unemployment insurance schemes in some 18 countries of the world. It is quite true that most of the countries affording markets to Canadian exports have unemployment insurance schemes, at the present time, but not by any means all of them.

THE CHAIRMAN: No, but it occurred to me that our principal export markets are in countries where they have unemployment insurance schemes. So there would not be a discrimination against our industries in that respect.

MR. MACDONNELL: No, quite true. Continuing:

"Without discussing the social and economic effects of such an unemployment insurance scheme, applying (as it must, if it is to be actuarially sound) only to "stable" workers, we wish to emphasize the fact that the great majority of the kind of unemployed people who have been maintained by the state during recent years would not be eligible for benefit under such a scheme. They, it is submitted, would have to be provided for by other means and the plan for so providing should really be worked out and put into effect before any insurance scheme is launched, since otherwise there would be danger of political pressure forcing the extension of the insurance scheme to cover classes it was never intended, and would be quite unable, to provide for."

THE CHAIRMAN: Would you develop that a little more, Mr. Macdonnell? What classes have you in mind that you suggest would not normally come under an unemployment





insurance scheme, but in respect to which pressure might be brought to bring them in?

MR. MACDONNELL: I was thinking particularly of people who would not be eligible for the benefits because they had not paid in contributions; for instance, the unemployed at present being maintained in Canada; that is one class, those people who have never become eligible because they have never paid contributions. Then there is another class of people who have paid contributions but who have become ineligible for benefits because their right to benefit has been exhausted.

COMMISSIONER ANGUS: Mr. Macdonnell, are you considering a scheme in which there are different premiums in different industries in proportion to their risk of unemployment, or are you considering a flat rate for them all?

MR. MACDONNELL: The 1935 Act contemplated a flat rate arrangement, and that is really what we had in mind here. Of course, what the new legislation is to be, we do not know.

COMMISSIONER ANGUS: Its actuarial soundness means that those who have a small risk of unemployment pay for those who have a big risk of unemployment. It is really a tax on the wages of one group for the benefit of the others.

MR. MACDONNELL: You are speaking of the 1935 legislation?

COMMISSIONER ANGUS: Yes.

MR. MACDONNELL: That is quite true.

COMMISSIONER ANGUS: I wonder whether that was the type of scheme you favoured or whether each industry should bear its own risk of unemployment?

MR. MACDONNELL: As a matter of fact, we are making



representations to the government to the effect that some modification of the flat rate principle ought to be adopted. In other words, there ought to be some attempt to differentiate between industries on the basis of their past record in the matter of risk of unemployment.

COMMISSIONER ANGUS: What I wanted to come to is this, that in the case of those people who have exhausted their benefits because of unemployment over a long period, there is not enough money to carry them, and it really means that there is too great a variation in a particular industry between employment at the peak and employment in the bad years.

MR. MACDONNELL: That is true.

COMMISSIONER ANGUS: But one could hardly look forward to that as a permanent condition, maintaining industries with such a very high rate of variability in the numbers they employ.

MR. MACDONNELL: No, I quite agree, and that, of course, is one of the arguments advanced in favour of unemployment insurance, that it will encourage and even force industries to regularize their employment.

THE CHAIRMAN: Mr. Macdonnell, everyone of course must recognized the accuracy of the statement you have made that unemployment insurance would not take care of the people now unemployed because they have not made any payments, and it would only be as they got back into employment and made their contributions that they would come in under the scheme and get the benefit of it. But if we are to have unemployment insurance at all, is there any other method that can be adopted than that of starting in and operating it on the basis that those who have paid in for a certain period are entitled to benefits, and those who have not paid in are not? Those who have not paid in



have to be dealt with in some other way.

MR. MACDONNELL: Quite so, Mr. Chairman. All we are saying here is that it should be fully recognized that if it is to be actuarially sound an insurance scheme can only take care of a limited number of people over a limited period of time, and you should make other provision for the others.

THE CHAIRMAN: I think there is no doubt of the correctness of that proposition, but have you not unduly minimized the number of people who would be taken care of by an unemployment insurance scheme? I am only thinking of the experience of Great Britain and other countries. Have not a very large number of people been taken care of under their schemes in periods of depression, at least for the period for which their contributions carried them? Of course, beyond that period the State had to come to their relief.

MR. MACDONNELL: Undoubtedly. What we have really in mind here is what happened in Britain just prior to 1931. It was primarily because they had not inaugurated any scheme for taking care of the people who were not entitled to benefit or who had exhausted their right to benefit, that they got into difficulty in 1931, when the scheme got hopelessly into debt. Our whole point is that we in Canada, if we are going to introduce a scheme based on the British scheme, should not make the mistake they made, but that we should do now what they did following 1931. They set up this unemployment assistance fund to take care of those who could not come under the insurance scheme proper.

THE CHAIRMAN: You say that the unemployment insurance scheme should be Dominion legislation, and I assume that you suggest that the whole contribution made by the





government would be a Dominion contribution?

MR. MACDONNELL: That is our idea.

THE CHAIRMAN: That is your view?

MR. MACDONNELL: Yes.

THE CHAIRMAN: But when you come to the other question of aid for the unemployed, what about that? Do you make any recommendation on the point which is now much discussed of the burden of relief for the unemployed, which involves the expenditure of very large sums of money by the Dominion, the provinces, and the municipalities? Does your Association make any suggestion as to who should bear that burden or how it should be distributed?

MR. MACDONNELL: I have no specific instructions on that, Mr. Chairman, but I think there is no doubt that the Association would be opposed to any scheme for relieving the municipality or the province of all responsibility. In other words, it would not be sound to put the whole burden on the Dominion, so that the Dominion would be in the position of getting in the money, and the other jurisdictions spending it. I think I am perfectly safe in saying that the Association would regard that as unsound.

THE CHAIRMAN: Let me carry the question a step further, because it is a very important one and we would like to have the benefit of the views of your association upon it. It was suggested to us in the Western provinces that the Dominion should pay the whole cost of unemployment relief and take over the administration of it entirely, or seek the cooperation of the provinces and municipalities in administering the fund. Was your Association considered that problem?

MR. MACDONNELL: No, I cannot say that I have any definite instructions on that. I am afraid that I cannot go any further than what I have just said, that the



Association would regard it as fundamentally unsound that the Dominion should do all the paying, and the province and municipality do all the spending.

COMMISSIONER ANGUS: We are really confronted with this, Mr. Macdonnell: When we suggested this morning that the province might have wider sources of taxation you said no, your Association would not approve of that. When you speak of their borrowing, you advocate strict limitations on their powers to borrow. Now we come to their big source of expenditure in the last year or two, and they are not to be relieved of that. What is the outcome of it all?

MR. MACDONNELL: I do not want to be taken as meaning that we should specify how much the provinces should pay, but they should not be entirely relieved and, as I say, leaving the Dominion in the position of doing all the paying and the junior jurisdictions doing all the spending. I have no instructions on the specific point of how much the province and municipality should be asked to contribute.

COMMISSIONER MacKAY: Do you draw a distinction between unemployment insurance and the relief of the unemployed who are not under the insurance scheme? Do you say that the province and the municipality should contribute to an unemployment insurance scheme as well as to the relief of the other class?

MR. MACDONNELL: No, we have said that so far as the State contribution to the unemployment insurance scheme is concerned, it should be a Dominion contribution.

THE CHAIRMAN: Mr. Macdonnell, has your Association considered the distinction which has been drawn recently, as I understand it, in the administration of unemployment relief between the unemployed who are employable and the unemployed who are not employable? We were



informed in the west that there was a clear distinction now being drawn between the two classes, and a larger burden of responsibility was put upon the municipalities for those who were unemployable as distinct from those who were simply out of work because they could not find employment. Have you considered that problem at all in your consideration of this question?

MR. MACDONNELL: No, Mr. Chairman, I have no instructions on that.

I will continue now at page 4 of the Brief, Part III: I had been speaking of those who would not be eligible to benefit under an unemployment insurance scheme:

"They, it is submitted, would have to be provided for by other means and the plan for so providing should really be worked out and put into effect before any insurance scheme is launched, since otherwise there would be danger of political pressure forcing the extension of the insurance scheme to cover classes it was never intended, and would be quite unable, to provide for. This is the strongly-held view of practically all the English experts, in the light of what happened under the British Unemployment Insurance Act in the years immediately preceding 1931. Whereas at its inception in 1911 the scheme provided for contributions by the employers, the employees and the state, of one-third each, for the year ending March, 1931, out of a total cost of \$493,000,000, the contributions were 13.6 per cent by the employees, 15.6 per cent by the employers and 70.8 per cent by the state. In other words under the pressure of the widespread and long-continued unemployment the







"insurance scheme lost its character as insurance and became to a great extent a relief dole paid by the state. This situation was entirely corrected by legislation and the insurance scheme restored to its original position as an actuarially sound institution, with benefits conditional on contributions; and where assistance is required because no contributions have been paid or right to benefit has been exhausted, it is provided in part by grants by Parliament and in part by payments by the local authorities."

THE CHAIRMAN: In your studies did you ascertain how much was contributed by the central parliament and how much by the local authorities for unemployment relief?

MR. MACDONNELL: No, we have not got those figures, and so far as I know, sir, they are not available.

THE CHAIRMAN: Somewhere--I do not remember where--some statement was presented to us which suggested that the central government paid, I think, 95 per cent, or that the municipal contribution had been reduced to about 5 per cent. I have not looked it up, but some statement was made to us to that effect. I do not know whether it was correct or not.

MR. MACDONNELL: I do not believe the figures are available, but I will make a search, sir.

THE CHAIRMAN: If you could get any information on that, Mr. Macdonnell, we should be glad to have it.

MR. MACDONNELL: Yes, sir. Continuing with the Brief:

"To administer these extra-insurance benefits a national Unemployment Assistance Board has been set up and in the dispensing of relief a strict "means" or "need" test is applied. It is submitted that if an unemployment in-



insurance scheme is launched in Canada without any definite provision in the way of relief or assistance being made for the large number of unemployed who would not be entitled to benefit under the insurance scheme, there is every reason to fear that Canadian experience would be the same as the British experience outlined above.

The fact of the matter, it is submitted, is that an unemployment insurance scheme along the lines of the 1935 legislation, so far from solving the unemployment and relief problem and relieving the state of the grievous burden of providing for the destitute unemployed, is in substance nothing more or less than a thrift or savings scheme for the benefit of a limited class of workers who normally enjoy steady employment but from time to time find themselves unemployed. Taking this view of the scope and efficacy of such unemployment insurance legislation and mindful of the disproportion between the cost and the return in terms of provision for unemployment as a whole, this Association urges the most careful consideration before the Dominion assumes so substantial an additional burden."

THE CHAIRMAN: That is a question, of course, of public policy with which this Commission has not to deal.

MR. MACDONNELL: Quite so.

THE CHAIRMAN: We have to deal with the jurisdiction aspects of it, but not with whether there should or should not be such a scheme.

COMMISSIONER ANGUS: Related to the question of Dominion contributions, it was suggested to us in some of



the western provinces that unemployment insurance would be inequitable as between provinces unless it was accompanied by crop insurance. That is to say, it was suggested that if an industrial population concentrated in certain of the provinces were to receive a government contribution to tide them over bad times, the agricultural provinces should receive a similar contribution under a crop insurance scheme. Has this Association any views upon that question?

MR. MACDONNELL: It is a very interesting suggestion, but I am afraid it is not a point on which I have any instructions.

EXHIBIT No. 89: Part III of the  
Submission by the  
Canadian Manufacturers'  
Association--Old Age  
Pensions and Unemployment  
Insurance.

THE CHAIRMAN: Have you any questions to ask, Mr. St. Laurent?

MR. ST. LAURENT: Just one or two.

By Mr. St. Laurent (of Mr. Macdonnell):

Q. Have you any information as to the number of persons who could qualify for pensions if the age qualification were the only one? On page 1 of this part of your submission, you make the statement that there are 163,103 pensioners presently eligible under the Old Age Pensions Act. Have you any information as to the number of persons in Canada over 70 years of age? A. No, I am afraid I have not.

Q. You have not those figures? A. No.

Q. Then as to the possibility of there being a flat rate contribution under an unemployment insurance scheme, you are aware, of course, that there is a differential rate for workmen's compensation in each industry?

A. Yes.





Q. That contribution is paid by the industry itself?

A. Quite so.

Q. And it is ascertained and adjusted according to the number and serverity of the accidents happening in the industry? A. Yes.

Q. Unemployment insurance would involve probably contributions from employers, from employees and from the State? A. Yes.

Q. And employees should remain under the insurance scheme whether they moved from one industry to another or not. So it would seem to be hardly practicable to have anything but a flat rate contribution from the employee? It would not do to have one man's contribution be a particular sum one week and a greater sum next week if he changed his employer? A. Under the German scheme it is a proportion of the wages, and there are several other schemes which follow that principle.

Q. Is there a difference, any substantial difference, between the wages paid in industries where as Mr. Commissioner Angus put it, there is an excessive variability in employment, and those having average stability.

A. There is a certain difference. In industries where employment is notoriously uncertain and irregular, wages do tend to be higher than in industries where the employment is regular. Is that what you mean?

(Page 2410 follows)



Q. So that if the contributions were a percentage contribution from wages they would take care, to that extent, of the difference in risks. A. Yes, quite.

Q. Is that the only way from your experience with the association, in which it would be possible to take care of the difference in risk of unemployment in the various industries. A. Well, we have not attempted to go into that exhaustively, but the general idea is that some account might be taken of the employment record over a period in regard to industries, and rates created accordingly. I agree that it is a very difficult thing. Of course, the reason for it is obvious. If you do not have some scheme of that kind it means that your stable workers, who are not subject to periods of unemployment, and whose wages are lower on that account, are contributing out of their lower wages to provide benefits for employees who do have --

Q. Periods of unemployment? A. Yes.

Q. Now, on page 3 of the brief you speak of a system being strictly contributory. I take it you mean there would be an annual contribution sufficient to make it actuarially sound? A. Yes.

Q. At all times. A. Yes.

Q. That would not be necessarily contributions only from the employer and the employee, but would include also a state contribution? A. Yes.

Q. You mention the figure of \$42 million per annum as being the estimate of the total annual contributions. Was that the estimate of the total of the three sources? A. I understand so, yes.

Q. And your estimate is that would be only about one quarter of what might be required. A. Yes.

Q. The actual outgo would be something like \$160 millions



annually. A. Yes; that is to say, if we were to have the benefits comparable with those under the British act.

Q. Then, your estimate would be that the contribution would have to be four times as large as was estimated in 1935? A. Well, of course there is this to be taken into account: The British act covered a wider range of employees than the Canadian act. I mean, there were some 12 millions of people covered by the British act.

Q. Of course, that increased the number of contributors. A. Yes, that is true.

Q. And it increased the contributions from the employers? A. That is true.

Q. It is in proportion to the payroll. A. Yes, the total annual contribution.

Q. The total from the three sources? A. Yes.

Q. The state? A. Yes.

Q. The state's contribution would be \$14 millions or \$15 millions? A. Yes.

Q. Under the scheme? A. Yes. The state only paid 20 per cent.

Q. Only 20 per cent? A. Yes.

Q. That would amount to something between \$8 million and \$9 millions. A. Yes.

THE CHAIRMAN: Thank you, Mr. Macdonald.

MR. BLACK: Mr. Chairman, if you have no objection, we should prefer at this time to submit brief 5 in place of brief 4. This brief deals with the extent of the dependence of governmental revenues and national income on manufacturing in Canada directly and indirectly. The brief will be submitted by Mr. J. T. Stirrett, General Secretary of the Canadian Manufacturers' Association.

MR. J. T. STIRRETT: Mr. Chairman and Commissioners: In this submission we will endeavour to show that





manufacturing, directly and indirectly, is responsible for a large proportion of the Dominion, provincial and municipal revenues, and also that manufacturing is a large contributor to national income and to some extent to the individual incomes of practically all Canadians.

Statistics are not used extensively because it is understood that the Commission has arranged with Government departments, the Dominion Bureau of Statistics, and a staff of experts to provide this type of information, but if special figures are required, we will try to furnish them.

In any case, statistics can give only a very limited view of the dimensions, functions and accomplishments of the industrial system of Canada. All the members of the Commission have long and extensive experience with Canadian conditions. You have visited several provinces in the course of this inquiry and will visit all parts of Canada before its conclusion. You have seen and studied, doubtless, the ramifications of manufacturing, which affect, not only those employed industrially, but also, in some way, those in other occupations.

If we may, we would like to suggest a few lines of investigation which the Commission might consider undertaking.

We beg to draw your attention to the following official statement of revenues and expenditures of the Dominion of Canada for the year ending March 31st., 1937, published in the Canada Gazette, page 480, issue of August 14th., 1937:



REVENUES AND EXPENDITURES.

Total  
April 1, 1936  
to March 31, 1937

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Ordinary Revenue.

## Taxation Revenue

Customs Duty	\$ 83,771,090.52
Excise Duty	45,956,857.39
War Tax Revenue	
Excise Taxes (sales, stamps etc.)	152,473,422.30
Income Tax	102,365,241.75
Miscellaneous Taxes	1,984,257.46

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Total Taxation Revenue	386,550,869.42
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Interest on Investments	11,231,034.85
Post Office	34,274,552.00
Canada Grain Act	1,192,099.40
Miscellaneous	11,780,399.38

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Total Ordinary Revenue	445,028,955.05
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## Special Receipts (including Misc.

Receipts and Credits to Consol-  
idated Fund)

	8,463,997.61
Capital Accounts (Credits and Refunds)	616,069.00
Other Credits -- (write-down to Consolidated Fund, etc.)	44,725.73

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Total	454,153,747.39
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Ordinary Expenditure

## Debt Charges --

Interest on Public Debt	137,410,344.54
Cost of Loan Flotations	3,839,481.43
Charges of Management	196,064.30
Subsidies to Provinces	13,735,196.44



Old Age Pensions	21,149,351.52
Finance -- General Expenditure	10,353,235.65
Agriculture	8,741,069.88
National Defence	22,923,092.62
National Revenue	11,205,101.42
Pensions and National Health	55,253,007.07
Post Office	31,906,272.05
Public Works	14,518,757.52
Trade and Commerce	9,381,017.62
Transport	13,071,435.71
Other Departments	33,428,644.57

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Total Ordinary Expenditures	\$387,172,072.34
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Special Expenditure.

Total  
April 1, 1936  
to March 31, 1937

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Relief Projects, including	
grants-in-aid to Provinces	\$ 69,252,711.29
Western Drought Area Relief -- Governor-General's Warrants	8,750,990.48
Total Special Expenditure	\$ 78,003,701.77

Government Owned Enterprises

Consolidated Fund --	
Canadian National Railways	\$ 43,303,393.82
National Harbours Board	249,718.56
Total Losses Charged to Consolidated Fund	43,553,112.38
Loans and Advances Non-Active --	
Canadian National Steamships	1,753,778.90
National Harbours Board	2,419,192.70
Total Government Owned Enterprises	44,218,526.18

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Capital Expenditure

Public Works	3,236,563.75
Railways	203,035.22
Canals	51,944.87
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Total Capital Expenditure	3,491,543.84

Other Charges

## Consolidated Fund --

Write down of Assets, etc.	692,473.49
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## Non-active Accounts --

Write-down of Active Assets,	
Sundry Loans and Advances, etc.	18,487,114.63

Total Other Charges	19,179,588.12
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Grand Total Expenditure	532,005,432.25
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## Excess of Expenditure Over

Revenue	77,851,684.86
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The largest item, excise taxes, amounting to over one hundred and fifty two millions, includes sales tax collections of over one hundred and twelve millions, and excise taxes on sugar, automobiles, tires and tubes, matches, toilet preparations, soap, playing cards, cigars, wines, lighters, and transportation and telephones, stamp taxes, and collections from the three per cent excise tax on foreign imports."

In a separate brief --- I am anticipating a little here because I had assumed brief No. 4 would be read -- we have described the effect of the sales tax and have shown that manufacturers bear a very heavy



share of this load. In addition to acting as unpaid collectors of the sales tax for the Government, manufacturers pay large amounts out of their own accounts in sales tax on materials and capital equipment, including buildings and machinery, which they purchase for use in their operations, lose payments which cannot be recovered from bankrupts and absorb the tax in many cases in order to meet competition. The industrial population, as individual consumers, pay their share of the sales tax on their purchases.

It will be noted that practically all the excise taxes mentioned above are levied on manufactured goods. While the intention is that such taxes are to be paid by consumers, in many cases, competition, both domestic and external, forces manufacturers to meet prices by paying all or part of these excise taxes themselves.

The next item is income tax, amounting to over one hundred and two millions. This comes from corporations and individuals and we believe that the industrial system, in all its ramifications, is one of the principal sources of this tax.

If the provincial sources of income are examined, we believe that it will be found that the industrial population, through production and earnings, are responsible for a substantial portion of provincial taxes. It is respectfully suggested that the taxing departments of provincial governments be asked to advise the Commission of the approximate amounts of total taxes collected from manufacturers and their employees, and from those who earn at least part of their incomes in occupations affected



The large sums paid out of the Dominion treasury for relief, pensions and health, and railway deficits were distributed throughout Canada and benefited people in all parts of the country. It was, to some extent, a distribution of taxation income, collected largely from the business and industrial areas, to all parts of Canada to maintain certain national services.

If these funds for pensions, relief, and railway deficits had not been available during recent years, the consequences would have been very serious and the suffering very great.

There is the promise of unemployment insurance and the prospect of health insurance on a national basis, and it is expected that the governmental portion of the burden in both cases would be borne by the Dominion Government alone. Where is the money coming from? We know from experience that, in recent years, and especially since new departments of expenditure have come into existence, that a good share of the taxes has been paid by the business and industrial population, and we fear that, if additional national spending departments are created, still larger amounts will be exacted from the same sources in future.

In dealing with the contribution to taxation by those engaged in manufacturing and by those indirectly connected with it, we beg to emphasize the fact that taxes come out of surpluses or capital. Where there are no surpluses, there can be no taxes, unless they are taken from capital. If all surpluses, or too large a proportion of surpluses, are taken by taxes, the result will be





serious, and if taxes are taken out of capital, another name for savings, the ultimate effect will be disastrous.

We propose now to describe the relation of manufacturing to the incomes of all Canadians.

In this connection, we invite attention to the following statement, which shows the development of manufacturing in this country:

GENERAL MANUFACTURING STATISTICS FOR CANADA

Year	No. of Employees	Salaries & Wages \$	Gross Value of Products (C)
1870	187,942	\$ 40,851,009	\$ 221,617,773
1929	694,434	813,048,842	4,029,371,340
1935(A)	582,874(B)	590,326,904	2,807,337,331

(A) The latest official figures available are for 1935, and the Dominion Bureau of Statistics states that the 1936 figures will not be available until March, 1938.

From monthly statements issued by the Dominion Bureau of Statistics, it appears that employment volume of production in manufacturing during 1937 was close to the peak figures of 1929.

(B) Because of a change in the method of compilation by the Dominion Bureau of Statistics, the number of employees in 1935 is an under-estimate when compared with the number shown in 1929. In 1929 the average number of employees for all manufacturing was obtained by summing the averages of individual plants based on the number of months in actual operation. In 1935, however, the aggregate of the monthly figures was divided by 12, irrespective of the number of months during which

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individual plants may have been in operation. Thus the present method of computation gives the man-year that each plant operates.

(C) Production reports of individual industries issued by the Dominion Bureau of Statistics show "Gross Value of Products" to be "Selling Value at Factory or Works."

A great sum of money, exceeding four billion dollars in 1929, which represents the selling value of goods manufactured, is released annually throughout Canada and it would be difficult to find anyone who, in some degree fails to benefit, directly or indirectly."

THE CHAIRMAN: Have you the figures available of the other main branches of production in industry in Canada? What was the value of agricultural production in 1935? I just want to get a picture of the relative values.

MR. STIRRETT: The figures, Mr. Chairman, which will give part of the information requested, at least, will be found from a survey of the production in Canada in 1935 issued by the Dominion Bureau of Statistics. Allowance has to be made for a certain amount of duplication as between the industries; but that is explained in the note underneath the tables, and they are listed. The gross and net for agriculture, forestry, fisheries, trapping, mining, electric power, construction and manufacturing are given for 1934 and 1935.

THE CHAIRMAN: Have you the comparable figures for 1929? Where you use the \$4 billion for manufactured products in 1929, I was wondering if you had the comparable figure.

MR. STIRRETT: That information could be obtained from the Dominion Bureau of Statistics. This was issued in 19



in 1927 and the one issued in 1937 would give these figures.

THE CHAIRMAN: You have not it before you?

MR. STIRRETT: I have not, no sir.

COMMISSIONER ANGUS: The \$4 billions is the gross figure?

MR. STIRRETT: Yes, the gross figure. Some consideration would have to be given for duplication. This explains fully the basis on which it is compiled. The brief continues:

"It may not be known, generally, how great a proportion of the population is affected by condition in manufacturing. If each industrial worker has on the average three dependents, about one-quarter of the entire population of Canada depend directly on the salaries and wages paid in Canadian factories. In addition to these, there are large numbers engaged in other occupations who derive part of their incomes at least from industrial sources.

This growth is due largely to Canadian enterprise and thrift, and only to a comparatively small extent to the investment of capital from other countries, welcome though that has been. In support of this we refer to the following statement in the Canada Year Book, 1937, edition, page 871:

"It is estimated that the amount of capital invested in Canada is \$18,000,000,000. This sum includes the bonded indebtedness of Dominion, provincial and municipal governments, investments in railways, all manufacturing concerns, mines and metal industries, public utilities, trading establishments, finance, insurance, land and mortgages. It does not include private capital in domestic enterprises such as farms, homes, etc.





Of this sum it is estimated that  $62\frac{1}{2}$  per cent, or \$11,200,000,000 is owned in Canada; 22 per cent, or \$4,000,000,000 in the United States; 15 per cent, or \$2,800,000,000 in the United Kingdom;  $\frac{1}{2}$  per cent, or \$95,000,000 in other countries.

"If the basis of comparison is total national wealth, British and foreign investments decrease in significance. Canada's national wealth in 1933 was estimated at \$25,768,000,000; net British and foreign investments in Canada were about \$4,785,000,000, or 18.5 per cent of the total."

The ownership of capital invested in Canadian manufacturing establishments only, according to available statistics, was in the following proportion: Canadian, 70 per cent; United States 20 per cent; British and other countries, 10 per cent.

We wish to indicate very briefly how manufacturing affects those in other occupations and to stress the necessity of friendly cooperation among all departments of national activity. In this connection, it is suggested that the incomes of the great majority of the entire population are affected, in some degree, directly or indirectly, by the success or failure of manufacturing operations.

Manufacturing is only one branch of production, among many branches such as agriculture, lumbering, mining and fishing. In some ways, their methods and processes are similar to those of manufacturing. They are all interdependent. As an illustration of this, let us take the relation of industry and agriculture. It is estimated that the great bulk of farm products of Canada is used at home. An official handbook, published by the Dominion Bureau of Statistics in 1934 says:



'Approximately 85 per cent of our total agricultural production is consumed in Canada.'

This percentage fluctuates from year to year according to value and volume and also as a result of classification of products, but we believe from information available that it is reasonably accurate to say that from seventy-five to eighty-five per cent of the total agricultural production is used at home and that from fifteen to twenty-five per cent is exported. There is considerable concern, at times, over the problem of marketing the exportable agricultural surplus. If the situation were turned about and the country had to find external markets for seventy-five or eight-five per cent, or even that part of agricultural production which is now used or consumed within the borders of this country by those engaged in and dependant upon industry, the problem would be insolvable. The cities, towns and villages, which are largely the result of industrial expansion, have populations which consume a large percentage of such products. Increasingly large amounts of agricultural products are used in industrial processes in factories. According to the Canada Year Book, 1937, of all materials used in the manufacturing industries of Canada, 36 per cent are of Canadian farm origin. The domestic market in Canada, which is now worth . four or five times more to Canadian agriculture than all export markets combined, has become increasingly essential because of the growing tendency of other countries to produce their own food supplies. We are aware that the home market is more valuable to farmers located in highly industrialized areas

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than to farmers in other areas and we believe that this should be taken into account and some further compensation should be provided. In time, the growth of industry will increase the capacity and value of the home market in all areas. The prairie provinces for example, since their organization have developed industrial organizations, which already compare favourable with those in some small independent countries. The following statistics indicate what has been accomplished:

MANUFACTURING STATISTICS IN THE PRAIRIE PROVINCES

No. of Employees			Salaries and Wages			Gross Value of Products		
Man.	Sask.	Alta.	Man.	Sask.	Alta	Man.	Sask.	Alta.
			\$	\$	\$	\$	\$	\$
			(000's omitted)			(000's omitted)		
10,113	1,376	1,983	5,801	681	1,129	27,857	2,444	4,980
26,318	8,047	13,478	34,159	10,439	16,460	163,806	80,436	106,824
23,239	6,355	12,087	24,701	6,524	12,504	117,734	46,821	73,283

These are the latest statistics available, but it has been pointed out in presenting manufacturing statistics for Canada, that monthly official statements indicate that 1937 statistics of manufacturing will be near those of 1929."

THE CHAIRMAN: You think the production, both as to quantity and value, of manufacturing industries in 1937 will be approximately the same as 1929?

MR. STIRRETT: I should not like to make a definite statement. We have been watching the monthly bulletins of the Dominion Bureau of Statistics, and their indices indicate something of that. Exactly what it would be I do not think we are in a position to say, but it is approaching it, at any rate. I continue with the brief:

"It should be remembered that industrial





systems do not grow quickly. Industry, in the older provinces, has been developing for over a hundred years. With these facts in mind, it seems obvious that the industrial expansion of thirty years in the prairie provinces has been a marked achievement. On the whole, Canadian agriculture and industry are complementary and interdependent. Each contributes to the other and what helps or injures one helps or injures the other.

Mining and manufacturing give another example of interrelation and cooperation. Canadian mines provide a most valuable market for Canadian manufactured products and it is gratifying to report that Canadian mines are almost entirely supplied by Canadian factories, which now make the largest machines and articles of equipment, that were formerly imported. On the other hand, Canadian manufacturers buy from the mines large supplies of base metals, building materials, fuels and other products.

The similar interdependence of manufacturing with lumbering, fishing, and other departments of production is so obvious that it needs little comment.

In the fields of finance, retail trade, professions and real estate, relations with manufacturing are vital and an important source of income. Take the factories out of a town and a large part of the existing business, markets and employment disappears. Abolish manufacturing from a country and the same disastrous result follows on a large scale.

We wish to present some special information in regard to the transportation system of Canada, because of its importance to Canadian economy.



The canals, harbours and similar facilities under the jurisdiction of the Federal Government, since Confederation to March 31, 1934, represent an investment of \$670,231,100. During the same period the cost of maintenance, operation and subsidies in connection with these facilities totalled \$236,389,200. The total of these two, with \$82,173,800, for dredging makes a grand total of \$988,794,100. The foregoing information was secured from a pamphlet "Waterways of Canada," issued by the Transportation and Public Utilities Branch, Dominion Bureau of Statistics, Ottawa, in 1935.

Railway transportation, at December 31, 1935, represented capital amounting to \$4,460,264, 309. For full information in regard to railway earnings, expenses and deficits, you are referred to the publication "Statistics of Steam Railways of Canada for the year ended December 31, 1935," published by the Dominion Bureau of Statistics.

Air transportation facilities are largely confined at present to movements of traffic in the northern areas, but shortly there will be established a trans-continental service, extending across Canada, controlled by the Canadian National Railways, and representing a preliminary investment of \$5,000,000.

In 1936, the investment in connection with civil aviation in Canada was \$67,179 in flying clubs and \$4,632,220 in commercial flying. The flying clubs, in 1936, reported total operating revenues of \$198,401, total operating expenses of \$182,325,



leaving a net operating revenue of \$16,076, while commercial flying had total operating revenues of \$2,501,242, expenses of \$2,330,019, and a net operating revenue of \$111,223.

The foregoing information was taken from a pamphlet entitled "Civil Aviation in Canada 1936", published by the Transportation and Public Utilities Branch of the Department of Trade and Commerce.

Highway transportation facilities, including the roads which are chiefly built by the provinces, were provided to a great extent by the creation of provincial highway debts totalling \$492,290,334 at the end of 1935.

The total registrations of motor vehicles in all the provinces in 1935 is shown as 1,176,116: -- motor trucks, 170,280; passenger automobiles 984,700, and the balance taxi cabs, motor buses, motorcycles and ambulances. Public service vehicles, operating for hire, totalled 16,578 and trailers 6,349 in the same year.

The gross tax on motor vehicle owners and operators of all kinds, including provincial sales tax on gasoline, amounted in 1935 to \$54,623,623.

This information was taken from a pamphlet entitled "The Highway and the Motor Vehicle in Canada, 1935," published by the Transportation and Public Utilities Branch of the Dominion Bureau of Statistics.

This great and every growing transportation system needs freight and passenger traffic in larger quantities if it is to be maintained and developed, and, as manufacturing is a very important





source of both freight and passenger receipts, it is obvious that manufacturing and transportation have vital interests in common.

Railway records show that a great deal of high grade profitable freight originates with industry and that the earnings from this traffic enable the railways to give lower rates on primary products. It is true that a transportation company receives the freight on an imported article from the port of entry to its destination in Canada, but, on a Canadian product, the transportation company gets the freight on the raw materials to the factory and on the finished article from the factory to its destination. It also benefits from the passenger and freight traffic arising from the factory population. In other words, transportation derives vastly greater revenues from Canadian industry than would be received from the carriage of imported goods only.

In addition to building up a great domestic industrial system, manufacturers have added to the national income of Canada by maintaining and developing a very considerable export trade. Canadian manufactures are now sold in over a hundred countries. In order to remove any misconception that Canada is principally an exporter of primary products and raw materials, we submit the following analysis of Canadian exports for the year ending March 31st., 1937:

THE CHAIRMAN: Under what heading does pulp come, partly manufactured?

MR. STERRIT: Yes, I think it would.

THE CHAIRMAN: Paper under "fully manufactured"?



MR. STIRRETT: Well, I do not like to answer specifically. I think they are compiled --- I do not know exactly where the Dominion Bureau of Statistics draws the line as between them. There are all kinds of dividing lines between fully and partly manufactured goods, and unless one knows their exact method it is rather difficult to say. I would say paper was "fully" and pulp "partly".

THE CHAIRMAN: I just wanted to have that as an illustration.

MR. STIRRETT: The brief continues:

Canadian Exports to	Raw Materials	Partly Manufactured	Fully Manu- factured
All countries	35.9	27.9	36.2
Europe	51.0	23.5	25.5
North America	26.1	35.0	38.0
South America	4.6	7.2	88.2
Asia	16.8	41.3	41.9
Oceania	6.4	6.7	86.9
Africa	35.9	27.9	36.2
British Empire	40.6	21.2	38.2
United Kingdom	47.3	24.4	28.3

This return is taken from a book entitled "Canadian Balance of International Payments, 1926-36, inclusive," published by the Minister of Trade and Commerce, Dominion Bureau of Statistics, Ottawa, 1937

"Over one third of the members of the Canadian Manufacturers' Association are engaged in export trade and are responsible for a great proportion of the exportation of manufactured and partly manufactured goods.

In the statement of estimated Canadian



balance of international payments for 1936, published recently by the Dominion Bureau of Statistics, the most important figure is a net credit, "corrected total of commodity trade," of over three hundred and twenty two million dollars. It is significant that this practically equals the total net credit on all items in the current account of goods, gold and services. When the calendar year 1937 figures are available, this credit will probably be lower, as imports for the twelve months ended November, 1937, increased in greater proportion than exports. In corroboration of this, advance figures of the Dominion Bureau of Statistics show that imports of merchandise for the twelve months, ended November, 1937, were one hundred and eighty-eight million dollars greater in value than those of the preceding twelve months, whereas exports of Canadian products, for the same period, excluding gold bullion, were only one hundred and five million dollars in excess of those for the preceding twelve months.

A surplus of exports is necessary to service the debts contracted with other countries. Canadian exports, almost two thirds of which are manufactured or partly manufactured goods, improve Canada's credit position by permitting the payment or repatriation of a considerable amount of debt held abroad. Any large replacement of goods made by Canadian industry by imported products would render more difficult the problem of finding means of paying for them. There are obviously some limits to exporting because so many countries are pursuing policies of restricting their imports, which would





remain largely unaffected by anything Canada might do, owing to fear of war and their own domestic conditions. Some years ago, any deficiency in available credits for use abroad was made good by further borrowing but, under prevailing conditions, this method is scarcely desirable. More and more nations are coming to find that the easy method of borrowing from the seller money with which to buy his goods is becoming impracticable.

We have endeavoured to show that Canadian industry is contributing heavily to governmental revenues. We have emphasized the need for every possible economy in governmental administration. We have urged that taxation should not be increased to a point where it will prevent industry from serving the country adequately.

We now submit that, if industry is to continue to do its share, reasonable safeguards for the industrial system and those connected with it, are necessary.

It was encouraging to note that, in the representations made to the Commission at Winnipeg and Regina it was not suggested to any extent that the system of national protection should be abolished or changed in any important degree, or that the rates of duty on imports should be reduced. It was submitted that some parts of Canada do not derive as much advantage as other parts of the country from the industrial system and that some additional compensation should be provided.

We believe that this is a reasonable point of view and desire to associate ourselves with it and to support it in so far as the application of the proposal is practicable, fair and in the national



interest. It is fundamental to the success of a fiscal system in any country that all areas and those engaged in all occupations shall receive benefits. It is not claimed that any national system of protection has no disadvantages but it is respectfully submitted that, in Canada, the advantages greatly outweighs disadvantages. It is, therefore, expedient and necessary to remove, as far as possible, the disadvantages, while retaining the advantages for the benefit of the whole country.

There is only one real argument against the system of national protection in Canada and it is that people pay more for some manufactured goods under customs tariffs than they would pay if tariffs were abolished. This is an argument which merits consideration because it is in one sense true. If all customs tariffs and other safeguards were abolished, and if Canadian producers were exposed to the full competition of European countries, with centuries of industrial skill and low wages, to the competition of Asiatic countries where the wages are only a fraction of Canadian wages, and to the competition of the great financial strength and mass production of the United States, it is certain that Canadians for a time, would be able to buy many kinds of manufactured goods at lower prices than they are now paying. But as imported products displaced Canadian products in Canada, obviously Canadians would lose employment. Practically all types of business would be adversely affected. Agriculture, lumbering and other branches of primary production,

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whose best market for their products is in Canada,  
would suffer.

(Page 2435 follows)





" The effect of sudden, extensive and unfair competition from abroad was described by the Right Honourable W.S.Fielding, Minister of Finance, in the following words, when he introduced the first anti-dumping legislation in the House of Commons in 1904:--'They send the goods here with the hope and the expectation that they will crush out the native Canadian industries. And with the Canadian industry crushed out what would happen? The end of cheapness would come, and the beginning of dearness would be at hand. Artificial cheapness obtained today under such conditions, at the expense of dearness at every near day in the future, is not a system of which we could approve or which any of us on either side of the House could encourage."

THE CHAIRMAN: Without expressing any opinion whatever on the conditions of 1904, would it be fair to say that under the conditions existing to-day the object of the American manufacturer in sending his goods into Canada and selling them at a lower rate would be to get rid of his surplus product rather than to destroy Canadian industry? Would not his object be simply to market his goods, whatever the effect might be on Canadian industry?

MR. STIRRETT: Well, Mr. Chairman, I respectfully submit that the result might be the same.

THE CHAIRMAN: The result might be the same; I am thinking only of the object. Without projecting myself back to 1904, but taking the conditions that prevailed in 1937, I find it difficult to think that the American manufacturer who ships his goods into Canada at a low rate is doing so with a view to destroying Canadian industry. If he does ship his goods in on those terms it is to get



rid of any surplus he may have as a result of conditions in his own market.

MR. STIRRETT: I should think that would be his object, there is no doubt about that.

" Some, while agreeing in a general way with our submission, might contend that prices could be lowered if industry paid less in dividends. They, apparently, are under the impression that manufacturing is a very remunerative occupation and that all manufacturers make large and easy profits. This erroneous conception is perhaps strengthened by the published reports of a few of the most successful companies. The average return would give a more accurate indication of the financial returns of industry. Statements compiled from the official Statistics of Income of the Treasury Department of the United States by the National City Bank of New York, published in March of this year, show that for the 18-year period, 1917-1934, the average annual net profit of all manufacturing corporations in the United States was only 3.71 per cent of gross income, while 96.29 per cent of gross income was paid out for wages and salaries, materials, and supplies, operating expenses and taxes and charges to depreciation and reserves. The same authority states that the rate of manufacturing profits on net shareholders' equity, after payment of interest on borrowed capital, averaged only three and one fifth per cent for the 10-year period, 1925-1934. Unfortunately, such statistics for Canada are not available but we believe that Canadian returns would not be higher than those from United States industry."



THE CHAIRMAN: May I refer you to the statement:  
"The same authority states that the rate of manufacturing profits on net shareholders' equity, after payment of interest on borrowed capital, averaged only three and one-fifth per cent for the ten-year period, 1925-1934."

What do they mean by that? Do they mean, on the stock outstanding?

MR. STIRRETT: I have the report here, it is highly technical and I have used their exact wording.

THE CHAIRMAN: Can you interpret it for us?

MR. STIRRETT: I do not believe I am capable of doing so.

THE CHAIRMAN: Is the three and one-fifth per cent on the investment, or is it on the stock issue? I should be surprised to find that it was on the investment, because I can hardly understand a man going into business, with the risks that are involved in manufacturing, with only that return on his investment. It may be that this return is on the stock issue, which would represent their equity. The question as to how far the stock represents actual cash and how far it represents good will or water is a big one.

The question is, what is meant by shareholders' equity?

MR. STIRRETT: I am afraid I shall have to ask for more time to answer that question.

THE CHAIRMAN: You might let us know later.

MR. STIRRETT: I have used their exact expression, but I am not quite sure what they mean by it.

THE CHAIRMAN: It is not helpful to us unless we know what is meant.

MR. STIRRETT: I will get an interpretation for you.





" The greatest item in the cost of manufacturing is wages, and would anyone ask that prices be lowered by a general reduction in the standard of living of Canadian workers?

We venture to stress these points because we believe that Canadian manufacturers and their employees, speaking of the great majority, are making and selling their products as economically as possible under prevailing conditions, which include heavy taxes, severe competition, and a relatively small population in a large country.

There may be some, and we think that they would be few in number, who might say that the industrial system could do everything that it is doing without the need of any safeguards. Such a view ignores all experience. We do not know of one industrial country which has ever developed manufacturing to any extent without a customs tariff and other safeguards. Certainly there is no manufacturing country in the world today without them. Many industrial countries which compete keenly with us have a greater degree of protection than Canadian producers. In addition to tariffs, many of them, including the largest industrial countries of Europe, use embargoes, quotas, and exchange regulations, to limit or prohibit imports. We are not defending all these things, although many countries say they find them necessary, and are hopeful that some these restrictions will be relaxed in order that international trade may recover more rapidly. Nevertheless, we are living in a world of realities and Canada cannot hope to maintain her industrial position and her export market as well if her home



"market, the most valuable by far, is taken from her by importations from countries which zealously protect their own home markets. That is not fair competition. All that we ask is, a reasonable chance in international and domestic trade. If the earning capacity of industry is impaired, it is difficult to see how the national income and national taxes can be maintained. If, on the other hand, industry is not taxed beyond capacity to pay and remain efficient, and if Canadian producers are safeguarded to the extent of equalizing conditions with their competitors, Canadian industry, which enters into every part of national activity and affects practically every citizen of Canada, can and will continue to do its full share in restoring prosperity, solving financial and economic problems and in developing the country.

"In conclusion, we beg to assure you that we do not wish to exaggerate the importance of the position of manufacturing in the national economy of Canada. We realize that we represent one group only, although its activities affect the welfare of so many others, and we earnestly desire to assist you and those representing other occupations and interests in every possible way during the progress of your inquiry."

THE CHAIRMAN: This morning I raised a question which is incidentally touched on in this portion of your brief -- a question in connection with the opening statement by Mr. Black on the reduction of national expenditures. I understood him to say that it would come up again in greater detail in another Part. Is it in Part IV or only in Part V? If it is only in Part V I should be glad



to have you throw some light upon it.

MR. STIRRETT: There is a suggestion of it in the study of the dominion's balance sheet on pages 1 and 2.

THE CHAIRMAN: Of Part V?

MR. STIRRETT: Yes.

THE CHAIRMAN: The problem is this. We are called upon to investigate the whole problem of debts in Canada, and it is being very frequently suggested in the press and elsewhere that the problem is how to reduce our debt and how to reduce taxation. In your opening statement you say that if taxes could be reduced by even 10 per cent it would largely solve our problem. What I should like to know is whether your association has considered the question how that might be accomplished. Have you any suggestions which we could consider as to any method whereby debt and taxation could be reduced?

MR. STIRRETT: I have no instructions to indicate any specific points on which reductions should be made. Perhaps our council are approaching the problem from the point of view of a manufacturing concern. Possibly they are thinking of it in terms of manufacturing. A manufacturing concern says, "we will cut expenditures 10 per cent", and each department reduces to that extent. They make cuts where they can.

THE CHAIRMAN: Everyone would agree that it would be a great benefit if debts could be reduced and taxation cut. At least I believe that most people would agree with that, although some might take a different view. The majority of the people, however, would no doubt agree with it. But it does not help us in our deliberations merely to be told that it is desirable, unless some suggestions are thrown out, which would come within the scope of our investigation, as to how it might be done,





so that we could make some recommendation.

MR. STIRRETT: I can only say that I have not any instructions to make any specific recommendations.

COMMISSIONER DAFOE: Would it be a fair inference from your statement at the bottom of page 6, the first column, that it is your impression, from the representations made by the governments of Manitoba and Saskatchewan, that they accept the present tariff system of Canada as being in the interests of the country?

MR. STIRRETT: I am sorry, sir, I did not quite catch the question.

COMMISSIONER DAFOE: Would it be fair to infer from your statement at the bottom of page 6 that in the presentations of the Manitoba and Saskatchewan governments they accepted the existing tariff system as in the interests of Canada?

MR. STIRRETT: No, I would not say that.

COMMISSIONER DAFOE: That would not be a correct inference?

MR. STIRRETT: No.

COMMISSIONER DAFOE: What they accepted, I think, was the sense of political impotence to change it, rather than any suggestion that in their judgment it is in the interests of the country.

MR. ST. LAURENT: There are a few questions which I should like to ask. On page 3 of the brief the statement is made that if each industrial worker has on the average three dependents, then about one-quarter of the entire population of Canada depend directly on the salaries and wages paid in Canadian factories. I assume that this conclusion is drawn not only from statistics but from your knowledge of economic conditions throughout Canada, which would appear to you to make this a fair



statement of the situation.

MR. STIRRETT: Yes.

MR. ST. LAURENT: For 1935 the number of employees is given as 582,874.

MR. STIRRETT: Yes.

MR. ST. LAURENT: Would that be the total number of those connected with the manufacturing industry including not only factory workers but executives?

MR. STIRRETT: All those in industry.

MR. ST. LAURENT: All those receiving salaries or wages from the manufacturing industry?

MR. STIRRETT: From manufacturing, yes.

MR. ST. LAURENT: And the salaries and wages are shown in the next column, \$590,000,000, or an average of a little over \$1,000 per individual.

MR. STIRRETT: Yes.

MR. ST. LAURENT: The next column gives the gross value of the products, that would be the selling value of the product in the home market or in foreign markets?

MR. STIRRETT: That is covered in Note (C) on that page. It is the gross value of products, which is the selling value at factory or works.

MR. ST. LAURENT: For the year 1935, can you tell us approximately what proportion of the economic turnover that represented?

MR. STIRRETT: I do not quite understand.

MR. ST. LAURENT: What proportion of the gross total value of production in Canada would that be?

MR. STIRRETT: I think I would rather have the Dominion Bureau of Statistics answer that question, because there are a number of qualifications to be taken into account in the way of accounting and drawing lines between different industries.



MR. ST.LAURENT: Roughly, would it be more or less than half?

MR. STIRRETT: It depends whether you consider gross or net. It is a rather difficult question to answer.

MR. ST.LAURENT: In any event, it is a very substantial portion of the trade of Canada.

MR. STIRRETT: Yes.

MR. ST.LAURENT: And I gather from other parts of the brief that it is a portion of the trade that takes a substantial percentage of the tax levy.

MR. STIRRETT: Yes.

MR. ST.LAURENT: With respect to that question as to where and how, if it is possible, any substantial economy can be effected in public expenditure, is it a fact that the association has no other representation to make than that which we find in the brief?

MR. STIRRETT: As regards making specific recommendations looking to reductions?

MR. ST.LAURENT: Yes.

MR. STIRRETT: No, we have received no instructions. Would the Commission like to have us ask for such instructions?

MR. ST.LAURENT: This Commission is inquiring into something that concerns us all, and your association represents quite a substantial part of the Canadian population; it represents also a considerable proportion of the tax paying population of the country, and if there is anything that should be considered it would seem worth while to bring it out and examine it and consider whether it is feasible and will work.

MR. STIRRETT: In the discussions in our council the position was taken rather that we would enunciate a general principle but that when it came to details





we must recognize the fact that we were without the necessary information and did not know the relations between the different governments, or costs or matters of that sort. They were thinking practically more or less of their own methods. If they decide to cut 10 per cent they do so.

MR. ST.LAURENT: I am not suggesting this as a reproach, but we all have the impression that it is costing us too much, though there are not many of us who seem to know how we can get along without spending money. If that is the situation, perhaps we shall have to face the expenditure as it exists.

MR. STIRRETT: In certain representations that have been made there seems to have been rather an apprehension about increases instead of reductions.

MR. ST.LAURENT: The question is a delicate one, but this Commission is a non-political body appointed to inquire into the economic situation and to get at the facts, and if there are any facts that the Canadian public should know and should take into consideration, those facts should be brought out. If there are none, or if all the facts have been already submitted to us, we shall have to take them as we find them. Are there any other suggestions which your association feel would be of value to the Commission in dealing with the problem?

MR. STIRRETT: Of course, we have submitted resolutions in Brief No.2, and there are some in connection with Brief No.4, in regard to the sales tax, which is still to come up.

MR. ST.LAURENT: But with that qualification, that is all the material which your association feel that this Commission should consider in that regard?



MR. STIRRETT: That is all that we have at the moment.

MR. BLACK: I believe it has been intimated that the Commission will be good enough to hear us later on when they return to this neighbourhood, and we shall be glad to have this question referred to our council and to have the matter approached from this angle. We trust that we shall be able to submit on that occasion something that will be helpful.

THE CHAIRMAN: We shall be very glad to have it, because the problem is an exceedingly difficult one. It is one with respect to which apparently the public expect some action; yet so far we have had no suggestion from any body that has appeared before us to show how there could be a reduction in public expenditures or in taxation which would relieve the taxpayer. If there are such suggestions we should like very much to have them.

MR. BLACK: We shall be glad to have a study made along that line and we will present our views.

MR. ST. LAURENT: The suggestion was made in the western briefs that, because of the tariff policy of Canada, and because it probably did operate in a certain manner to the disadvantage of the agricultural provinces of the west, there should be some compensating arrangement, and that matter is discussed here.

THE CHAIRMAN: At the bottom of page 6.

MR. ST. LAURENT: Yes. The statement is made:

" It was submitted that some parts of Canada do not derive as much advantage as other parts of the country from the industrial system and that some additional compensation should be provided. We believe that this is a reasonable



"point of view, and desire to associate ourselves with it and to support it in so far as the application of the proposal is practicable, fair and in the national interest."

That would be the feeling throughout the whole country, but has the association any specific recommendation which it can make that would meet the inequity if it exists?

MR. BLACK: No, we have not.

MR. ST.LAURENT: You have none?

MR. BLACK: No, we have no instructions.

MR. ST.LAURENT : You cannot go beyond agreement with the general principle?

MR. BLACK: That is all. The council felt that inasmuch as only two provinces had made representations and there are seven more to be heard from, and in view of the fact that we do not yet know what the attitude of the dominion is, we should for the time being simply support the general principle.

MR. ST.LAURENT: For the purpose of having such information as may be available at the present time, I assume that you have considered the brief that was submitted on behalf of Manitoba, wherein an attempt was made to compare purchase prices of articles required in the average farm budget in Manitoba with the prices of the same or similar articles across the line in the United States. Can you give the Commission any information or as to the accuracy or the reasonableness or otherwise of this method of approach?

MR. STIRRETT Without any reflection upon those who tried, no doubt earnestly, to make that comparison, after many years of experience we have grave doubts regarding the value of such comparisons of prices as between the





United States and Canada , because there are so many factors to be taken into consideration -- weight and size, colour, style, conditions of payment, terms of sale, and so on. In view of all these factors we find such lists of little value. We have made some ourselves, but I do not think they are very reliable. I believe we have had quite a bit of experience with this type of thing. For years workmen have been going back and forth, skilled men coming from the United States to help to start some factory here, some of our people going there, salesmen and so on. Leaving out, perhaps, some of the southern states where the cost of building and heating is low and the cost of living is less, I believe that generally speaking \$1,000 would go as far in Canada as in the United States, and perhaps a little farther, so far as the industrial population is concerned. We have looked into the questions of living cost, indices and all these things and they are only approximately correct. The general impression we have, however, is that so far as the industrial population is concerned, taking what the people can buy and what they have to pay in the form of rent and fuel, \$1,000 will go as far in Canada as in the United States and perhaps, as I say, a little farther in some places.

MR. ST. LAURENT: So that the head of a family with \$1,000 would enjoy as good living conditions here as in the United States.

MR. BLACK: Yes, and I would say in some places a little better.

MR. ST. LAURENT: That would be with respect to the industrial population?

MR. BLACK: Yes.

MR. ST. LAURENT: In other words, with respect to a



considerable proportion of the one-quarter of population referred to in the brief.

MR.STIRRETT:Yes.

MR. ST.LAURENT: With respect to the agricultural population, you have no similar comparison?

MR.STIRRETT:No, I have not the same experience. If I might hazard an opinion, however, I believe that the same general principle would apply; \$1,000 would go as far with the farming population of Canada, generally speaking, as it would in the United States.

MR. ST.LAURENT: Have you looked over the figures that were appended to the Manitoba brief purporting to deal with the expenditure of \$975 for a farm budget, which would show that for these items there was a difference of about \$100?

MR.STIRRETT:It is difficult to offer any criticism of that; one would have to be an expert familiar with every one of the articles to see whether they compared. A little difference that might not be so apparent in one instance might represent quite a percentage difference. Then what about the sales tax? Was the sales tax included?

MR. ST.LAURENT: No.

MR. STIRRETT: That is eight per cent.

MR. ST.LAURENT: So that the \$100 would have been reduced to \$30 -- or rather \$40, because those figures were for the 1936 sales tax, and in 1936 the sales tax was 6 per cent. There are also some items that do not bear the sales tax, some items that go into the agricultural budget.

MR. STIRRETT: We can give those articles.

MR. ST.LAURENT: Would you be in a position to offer any opinion as to whether or not this distribution of



any opinion as to whether or not this \$1,000 would represent a fair average farm budget?

MR. STIRRETT: No, I do not think I am.

THE CHAIRMAN: We come now to Part IV.

EXHIBIT No.91: Sales Tax and Excise Taxes.

#### SALES TAX AND EXCISE TAXES.

MR. R.N.McCORMICK(Assistant Manager, Tariff Department):

" The attention of the members of the Commission is respectfully directed to a form of taxation which did not exist at the time of Confederation, and so could not be taken into account in drafting the British North America Act. We refer to the consumption or sales tax imposed under the Special War Revenue Act. The origin and history of the sales tax in Canada are described in Appendix 1.

When the tax was established in 1920, the rate was fixed at one per cent and two per cent and was gradually increased in succeeding years as indicated in Appendix 1.

When trade conditions improved and the national revenue expanded, the rate was reduced, in successive stages, between 1924 and 1930 from six per cent to one per cent.

During the trade depression and the consequent falling revenues the rate was increased from one per cent to six per cent and the scope of the tax was widened. Later still with increasing demands on the Federal Treasury for relief and other purposes the rate was increased in 1936 to eight per cent. This indicates clearly, we submit, that successive governments reduced the rate when they could and





"only increased it because more revenue was required. It shows that, since 1920, governments have realized the nature and extent of the burden imposed on consumers and business by the sales tax and have been anxious to lighten the load whenever possible.

#### EFFECTS OF THE TAX

Because the sales tax has been so successful in providing the dominion government with large amounts of revenue, it should not be assumed that this has been accomplished without at the same time causing hardship to consumers and to business. It is proposed to discuss some of the burdens imposed by the sales tax under the following headings:

(a) The Sales Tax increases the price of goods to consumers.

(b) The Sales Tax increases manufacturing costs.

(c) The Sales Tax increases the cost of selling goods.

(d) The Sales Tax increases administrative overhead through the manufacturer being a tax-collector.

(e) The Sales Tax increases the cost of governmental administration.

(f) The Sales Tax operates as a discrimination against and imposes a burden on those Canadian manufacturers who manufacture and sell a completed taxable product.

(g) The Sales Tax operates as a discrimination between domestic products as compared with imported products.

(h) The Sales Tax operates as a discrimination between one section of an industry and another section of the same industry.



" (i) The Sales Tax hampers export trade.

(j) The Sales Tax when absorbed by manufacturers is paid out of profits and in some cases out of capital.

(a) The Sales Tax increases the price of goods to consumers.

The Sales Tax obviously increases the price paid by consumers for articles on which the tax is applied. It is a tax on consumption, and consequently it bears more heavily on the man with a large family who has to buy relatively larger quantities of manufactured articles to supply the needs of his family. The tax is an indirect and a concealed one because it is collected on the manufacturer's sales price.

(b) The Sales Tax increases manufacturing costs.

The manufacturer pays a sales tax of 8 per cent on everything which he purchases for the construction, equipment and operation of his factory, on advertising, on office supplies, and on machinery, patterns, dies, tools, etc., and on many articles and materials used up or consumed in the manufacturing processes. If in an endeavour to reduce his operating costs he builds or repairs machinery or other equipment, including patterns, tools, dies, etc., in his own plant, the taxing authorities levy a tax on all such goods, made for his own use.

The manufacturer, to earn a profit, must necessarily include all his costs in the price at which he sells his goods. It consequently follows that all the taxes paid by him and the additional expenses incurred through his being a tax collector, for the government, are reflected in the price at



"which his output is sold. As the tax is payable on his selling price the result is the manufacturer is paying a tax on a tax.

Where the raw materials pass through various stages in the process of being converted into finished products, there is a pyramiding of these costs, and of the sales tax on these costs. Consider, for example, the manufacture of shoes, harness or other leather products.

(1) The packer who produces the hides has for 17 years paid sales tax on all implements of production, machinery, equipment, building repairs, etc., supplied, installed or constructed during that period. These sales taxes increase the packer's production costs and are reflected in the price at which the hides are sold.

(ii) The tanner who converts the hides into leather has had his production costs increased by sales tax on all factory construction and on machinery, equipment, repairs, and supplies purchased throughout the past 17 years. These sales taxes enter into the production cost of his leather and are reflected in the selling price of the leather.

(iii) The shoe manufacturer who makes leather up into shoes has likewise had to pay sales tax on all his factory construction, machinery, equipment, repairs and supplies over the past 17 years. These sales taxes increase his production costs and are reflected in the selling price of his product.

Taking the additional sales tax costs included in the overhead of the packer, the tanner and the shoe manufacturer, there is a pyramiding of sales tax costs which enter into and increase the cost of





"the Canadian-made article. And when the shoe manufacturer collects and pays the sales tax on the sale price of his product he is paying a tax on those items in the production costs of the packer, tanner and himself, representing sales tax paid as set forth above -- thus he is paying a tax on a tax."

THE CHAIRMAN: Have you made any estimate as to what that pyramiding amounts to?

MR. McCORMICK: I do not think it would be possible to calculate that very accurately, and I do not know that it has ever been attempted. It would take a great deal of time and research to estimate what it would amount to.

THE CHAIRMAN: It would, of course, to do it accurately; but I was wondering whether you had any view at all as to the probable amount.

MR. McCORMICK: No, we have not, sir.

THE CHAIRMAN: You see, its importance depends upon its amount. Pyramiding is not a serious matter if the amount is not large; it may be quite a serious matter if the amount is large.

MR. McCORMICK: It would be very difficult to ascertain what that amount would be, but consider a plant constructed in recent years in connection with which perhaps a million dollars has been spent, all of which would bear 8 per cent on everything going into the plant. That in itself is a fairly substantial item, but to arrive at any accurate figures would require a great deal of careful calculation.

THE CHAIRMAN: You cannot throw any light upon it.

MR. McCORMICK:

" (c) The Sales Tax increases the cost of selling goods.



" Manufacturers selling a product which is subject to sales tax at the rate of 8 per cent find themselves faced with more or less of what might be termed a 'sales resistance' on the part of customers.

This 'sales resistance' has been felt particularly by manufacturers of building materials. The construction industry is far behind everything else in the way of recovery and one of the problems of manufacturers in the sale of building materials is the reluctance of builders to pay the present high rate of sales tax.

It is the considered opinion of manufacturers that the cost of merchandising goods is increased when they have not only to sell their product but also to sell the tax.

(d) The Sales Tax increases administrative overhead through the manufacturer being a tax-collector.

The manufacturer is put to additional expense by reason of the fact that he is a tax-collector for the government, as in many organizations the cost of this service for the government is quite heavy, requiring additional staff.

The manufacturer is required to keep adequate sales tax records and must retain these until they have been audited and he has received written permission to destroy them. He has to make a careful computation of the tax which might appear a simple matter but is usually extremely complicated. Many manufacturers sell, in addition to their own product, goods purchased from other manufacturers or imported on which they pay tax on their purchase or on importation. Their monthly sales will



"include goods on which they are to collect and account for tax, goods on which the tax has already been paid, goods which are tax-exempt, and in addition there will be sales of taxable goods to tax-free purchasers. This means that each and every invoice must be carefully analyzed, because at the end of each month the licensed manufacturer is required to file a sworn statement of his taxable sales and make payment with a marked cheque of the tax properly payable thereon. In most cases the one making the return has to go to a notary public to make the necessary affidavit."

THE CHAIRMAN: The time has come for adjournment. These briefs had better be marked as Exhibits; they are all referred to to-day. No.1 will be Exhibit 87; No.2 Exhibit 88, No.3, Exhibit 89; No.5, Exhibit 90 and No.4, Exhibit 91.

This room will be occupied to-morrow morning and we will therefore sit in Room 268. We shall begin at 10.30, and we shall be glad to hear you further then, Mr. McCormick.

(The Commission adjourned at 4.30 p.m., until 10.30 a.m., Tuesday, January 18, 1938.)









ROYAL COMMISSION ON DOMINION-PROVINCIAL RELATIONS

REPORT OF HEARINGS

REPORTERS:

George Thompson  
John Robertson  
David Torry





OTTAWA, ONTARIO, JANUARY 18, 1938

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OTTAWA, ONTARIO, JANUARY 18, 1938

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## ROYAL COMMISSION ON DOMINION-PROVINCIAL RELATIONS

OTTAWA, ONTARIO, JANUARY 18, 1938

The Royal Commission appointed to re-examine the economic and financial basis of Confederation and the distribution of legislative powers in the light of the economic and social developments of the last seventy years, met at the Parliament Buildings, Ottawa, Ontario, on Tuesday, January 18, 1938, at 10.30 a.m.

PRESENT:

HON. CHIEF JUSTICE NEWTON W. ROWELL....CHAIRMAN

DR. JOSEPH SIROIS	)	
JOHN W. D. FOE, Esq.	)	
DR. ROBERT ALEXANDER MACKAY	)	Commissioners
PROFESSOR HENRY FORBES LINGUS	)	

Commission Counsel:

Louis S. St. Laurent, Esq., K.C.

James McGregor Stewart, Esq. K.C.

Secretariat:

Alex Skelton, Esq.	Secretary
Adjutor Savard, Esq.	Secrétaire Français
R. M. Fowler, Esq.	Legal Secretary
Wilfrid Eggleston, Esq.	Assistant to the Secretary

FOR THE CANADIAN MANUFACTURERS' ASSOCIATION, INC:

W. D. Black	First Vice-Pres.
J. E. Walsh	General Manager
J. T. Stirrett	General Secretary
J. R. K. Bristol	Manager, Tariff Department
H. W. Macdonnell	Secretary, Industrial relations
R. N. McCormick	Asst. Manager Tariff Department
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FOR THE CANADIAN LIFE INSURANCE OFFICERS ASSOCIATION:

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T. D'Arcy Leonard	
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Room 268,  
House of Commons,  
Parliament Buildings,  
Ottawa, Ontario,  
January 18, 1938.

## MORNING SESSION

The Commission met at 10.30 a.m.

THE CHAIRMAN: Very well, Mr. McCormick.

MR. R. N. MCCORMICK: Mr. Chairman, I had got down to the last paragraph on page 2 of Part IV of the Brief on Sales Tax and Excise Tax, and I will continue from that point:

"There is also the cost to the manufacturer of taxes paid to the Government in advance of re-payment to him by his customers who may have been granted long term credits as for example, where it is the custom of the trade to grant spring dating on fall and winter deliveries. In the shoe trade, for example, merchants place their orders for two main seasons each year, spring and fall. Merchandise for spring selling may be shipped in December with terms of payment 30 days from April 1st which means that the bill does not come due for payment until May 4th, and in many instances payment is not completed until months later. The manufacturer is required, however, to pay the tax on deliveries within one month after the close of the month in which the goods are shipped. A similar practice prevails in respect of many other commodities.

The tax payments which have to be made by the manufacturers before they themselves can collect the tax from their customers must be financed by the manufacturers from their own capital or by borrowings from the banks. In the one case capital is tied up without any return and, in the other, interest



"must be paid on bank loans.

Then there is the loss on "bad debts." The sales tax becomes payable on delivery to the customer and as already set forth must be paid within one month after the close of the month in which the goods are shipped. If the customer before he has paid for the goods makes an assignment or goes into bankruptcy, the manufacturer not only loses the value of the goods shipped to the customer for which payment has not been made but also loses the amount of the tax he has paid to the Government on the goods.

(e) The Sales Tax increases cost of governmental administration.

In the administration of this law it has been necessary to establish a Department of the Government with a large staff of employees, including officers attached to the different Customs houses. There is also a large staff of qualified government auditors, who are engaged in auditing the business of licensees from time to time. All of this involves a heavy bill of expense which prior to the imposition of the sales tax was not incurred. There are no figures available of the cost of administration and it is doubtful whether any reliable figures can be compiled, by reason of the fact that on imported goods the tax is collected by the Customs Division who are primarily engaged in the collection of customs duties.

(f) The Sales Tax operates as a discrimination against and imposes a burden on those Canadian manufacturers who manufacture and sell a completed taxable product.



"The sales tax is largely paid by manufacturers of products, not otherwise exempt, which do not undergo any further process after the product leaves the factory, for example--clothing, furniture, kitchen utensils, hardware and other finished articles.

In addition to having to pay the tax on the sales of his taxable product a manufacturer is compelled by law to keep proper ~~books and records of~~ all transactions, which ~~necessitates~~ additional clerical staff, and he must pay the tax to the Government in many cases long before he is paid by his customer. The cost of keeping these records, of ~~making monthly~~ returns, the carrying charges on the amount of tax paid to the Government, and the loss on bad debts is a burden imposed on those manufacturers who manufacture and sell completed taxable products.

The manufacturer of a semi-manufactured product which is the raw material of another licensed manufacturer - ~~for example, the manufacturer of pig~~ iron, leather, etc. -- does not have to pay the Government any tax on his sales as the customers of such a manufacturer, because these materials are for further manufacture, buy free of tax.

The manufacturer of tax exempt goods does not have to keep records nor make monthly returns and he does not pay any sales tax on his sales.

In other words, the manufacturers of what may be termed essential commodities or necessities of life are responsible for a very considerable portion of the Federal revenue. In addition, they have to shoulder the cost of administering the tax in relation to their business and the cost of collection which,





"in many cases, is a considerable item. The cost of collecting revenue is properly an item of Government expense and the cost is borne by the Government in collecting Customs and Excise duties, income and other taxes, and in collecting the sales tax on imported goods, but when it comes to collecting the revenue from domestic sales tax, the cost of collection is borne by those manufacturers who have to remit the tax to the Government.

(g) The Sales Tax operates as a discrimination against domestic products as compared with imported products.

The Canadian manufacturer of a taxable product collects and pays the Government the tax on the sales of his product; in addition he pays the Government an 8 per cent sales tax on all plant buildings or extensions thereto, on the equipment by means of which the product is manufactured, on many classes of materials used in the manufacturing processes, on all advertising literature, on office supplies, etc. He has in addition to bear the cost of collecting the tax for the Government. Details of the additional sales tax paid by Canadian manufacturers and of expenses incurred by them in collecting the tax are set out under headings (b) and (d).

If a manufacturer ships a similar or a competitive product into Canada there will be no element of sales tax in his selling price because he will not have paid any tax on any item of manufacturing cost. The purchase price of raw and semi-manufactured materials will not include any item of tax, he will not have paid any tax on his plant buildings, on his production machinery, nor on patterns, tools, dies,



"etc., nor on the materials used up or consumed in the manufacturing processes nor on office supplies, advertising literature, etc.

The Canadian manufacturer has to collect the tax and bear all the expense of collection but where a foreign manufacturer ships goods into Canada, the Government collects the sales tax and bears all the expense of collection.

(h) The Sales Tax operates as a discrimination between one section of an industry and another section of the same industry.

A taxing statute should be based on equality of taxation as between the same classes of individuals, but such is not the case in respect of the Canadian sales tax. The following will illustrate:

(I.) GARMENT MAKERS: In the clothing industry the tax is not applied equitably as between merchant tailors and clothing manufacturers. Canadians of moderate means buy ready-made garments and on these garments sales tax must be paid on the manufacturer's selling price which includes cost of materials, cost of making, factory and general overhead and profit.

The manufacturer of custom-tailored garments, which command a much higher price than ready-made garments, does not pay sales tax on his sales. Of course the merchant tailor will pay tax on the materials used by him, but he is not liable for tax on the cost of making nor on his profit.

(II.) JOB PRINTERS: Another example of discrimination between two sections of the same industry arises out of the regulation which states that sales tax is not payable on sales by publishers and job printers who manufacture or produce job



"printed matter to the value of less than \$3,000 per annum, and who sell the job printing exclusively to users. Such job printers only pay tax on the cost of materials used. Other job printers are required to account for sales tax at the rate of 8 per cent on the sale price of job printed matter produced by them and which frequently is produced in competition with the smaller job printers.

(III.) SHEET METAL WORKERS: Still another example is that of sheet metal workers and tinsmiths. A large percentage of sheet metal workers are operating without a sales tax license with the consent and approval of the Government. These firms of course pay sales tax on material which they use but do not pay any tax on the sale of the formed metal. On the other hand a manufacturer of sheet metal products who has a factory is required to account for sales tax at the rate of 8 per cent on the sale of his manufactured product. The difference between 8 per cent on the finished product and 8 per cent on the raw material is a considerable item and complaint has frequently been made that these unlicensed firms are able to undersell the licensed manufacturer.

(IV.) CANNING INDUSTRY: In recent years there has been a considerable increase in the quantity of fruits and vegetables packed by individual farmers. The equipment used in these small canning plants is inexpensive and campaigns have been carried on, in some cases by firms interested in selling the equipment used, to encourage farmers to pack fruits and vegetables, and to a certain extent the practice has been encouraged by the Government itself.





"The Act provides that farm produce sold by the individual farmer of his own production is not subject to sales tax and the Government has ruled that this covers fruits and vegetables placed in cans, but not otherwise treated than by heat to prevent deterioration.

On the vegetables canned by the farmer there is no sales tax paid, whether the farmer disposes of his pack directly or through the medium of commission houses. On the other hand, the canning factories are required to operate under license and have to account for tax at the rate of 8 per cent on their entire output.

(V.) FUEL OIL VERSUS COAL: Schedule III of the Special War Revenue Act which contains a list of articles which are not subject to the sales tax originally had an enumeration "Fuel of all kinds." In March, 1933, this enumeration was changed to "Fuel other than in liquid form" and since that change the sale of fuel oil in Canada is subject to sales tax while coal, gas, and electricity, with all which it is in direct competition, are exempt from tax.

This adds a burden to those who use fuel oil."





THE CHAIRMAN: Mr. McCormick, have you any recollection why that change was made? There must have been some reason for it.

MR. McCORMICK: There was no reason given in the House at the time the change was made. They simply brought down a new Schedule 3, and in the new Schedule 3 the new wording appeared without any reason being given as to why the change was made.

I now continue with Paragraph VI:

"Inward freight on raw materials: With the present high rate of sales tax (8 per cent) representations have been made by manufacturers in various parts of the country showing how they are handicapped in not being allowed to deduct from their selling price the inward freight paid on their raw materials.

For example, certain manufacturers in Eastern Canada of wooden doors and wooden conduit pipe bring their raw material, lumber, from British Columbia. The freight for transporting this lumber to Ontario is anywhere from 50 per cent to 100 per cent of the value of the lumber and as the freight rates are necessarily included in the selling price of the finished products on which the Eastern manufacturer pays tax the effect is that he is paying in sales tax an amount about double that paid on similar competitive goods made in British Columbia.

The door manufacturer and conduit pipe manufacturer in British Columbia has no freight or very little to pay on his raw material, and as a result in paying his sales tax on an f.o.b. factory price, he is paying the



"tax on a price which does not include any freight.

Another instance where freight on raw materials results in discrimination between firms engaged in the same industry is in the case of corrugated sheet iron. Galvanized sheet iron is not produced in Western Canada but is produced in the East. Where it is corrugated by an Eastern manufacturer there will be little, if any, inward freight to pay on the raw material, and the manufacturer's selling price of the corrugated squares f.o.b. his factory would be arrived at without freight being included. But if a firm in the West does the corrugating, the freight charges for transporting the galvanized sheet from the point of production to the West will be as much a part of his cost as the price paid for the sheets. This freight will amount to \$6.00 or more per car and 8 per cent of this would be, roughly, \$50.00. As a matter of actual fact, taking the selling price of the corrugated sheets in the West and comparing it with the price of the Eastern manufacturer, the Western corrugator will pay tax of 80 cents per square, based on a price of \$10.00, whereas the Eastern manufacturer would pay a tax of 68 cents per square based on a price f.o.b. his factory of \$8.50.

(1) The Sales Tax hampers export trade.

Where goods subject to the sales tax when sold in Canada are exported to the United States and are dutiable at ad valorem rates, the Customs authorities of that country



"have ruled that the tax forms part of the home consumption value of the goods, and must be added for Customs duty purposes to the invoice price; and on the combined amount the United States customs duty must be paid. On raw materials and semi-manufactured products no tax is payable when sold in Canada to manufacturers of taxable goods, but when these goods are exported to manufacturers in the United States the United States Treasury Department have ruled that the selling price is to be advanced 8 per cent to arrive at the value for duty."

THE CHAIRMAN: To illustrate, in the case of the export of pulp which is to be used in the manufacture of paper, you say that the pulp manufacturer in Canada would not pay any sales tax. The sales tax would be paid by the paper manufacturer on the paper he manufactured and sold; but when the pulp is exported to the United States, in arriving at the duty that is payable on entering the United States, you say that their Department of Customs has ruled that sales tax must be added to the invoice price in order to arrive at the price upon which duty should be paid.

MR. McCORMICK: Exactly. We have a copy of the most recent United States treasury decision just on that point.

THE CHAIRMAN: It does not seem wholly reasonable that it should be so, but we have no control over the United States rulings in these matters.

MR. McCORMICK: It is entirely different from the practice in Canada in dealing with sales tax in other countries. The Canadian practice is that where semi-manufactured goods come into Canada from France, where





there is an 8 per cent sales tax, but which is not payable when semi-manufactured products are sold to another manufacturer in France, the Canadian Customs says that that 8 per cent tax is not part of the value for duty when semi-manufactured goods enter Canada.

THE CHAIRMAN: That would seem to be the logical and reasonable view to take, but in these Customs matters it is not always reason and logic that governs.

COMMISSIONER AUGUS: In Paragraph (i) you say, "but when these goods are exported;" does that mean the taxable goods or the raw materials?

MR. McCORMICK: The raw materials and semi-manufactured goods. The word "these" refers to raw materials and semi-manufactured goods only. I continue with the next paragraph:

"The Act specifies that sales tax shall not be payable on goods exported but so long as the tax is payable on patterns, dies and other items of manufacturing cost mentioned in (b) above, export sales are actually subject to a substantial amount of sales tax. And when it is realized that the manufacturer abroad with whom he is in competition, as for example, the British manufacturer or the United States manufacturer, has not had to pay any sales tax on any item of manufacturing cost, it will be apparent that the Canadian exporting manufacturer is at a disadvantage.

(j) The Sales Tax when absorbed by manufacturers is paid out of profits and in some cases out of capita.

There are many cases where manufacturers have found it necessary to absorb the sales tax instead of collecting it from their



"customers. In respect of certain commodities long established retail selling prices prevent the tax being passed on to the consumer and where this condition obtains the tax has to be paid out of profits, if any. If there are no profits, or if the profits are not sufficient to take care of the full amount of tax payable on the merchandise, any deficiency will have to be paid out of capital.

There are other commodities where the unit selling price is too small to pass the tax on to the consumer and in such cases it has been necessary for the manufacturer to absorb the tax. Here again the tax must either be paid out of the manufacturers' profits or out of capital.

There have been in recent years many instances where goods have been sold at bare cost and sometimes at less than cost in order to keep the factory operating, give employment to the workmen and also keep the article on the market. Once an article is taken off the market it is difficult and expensive to re-establish it. In such cases if the manufacturer is unable to collect the sales tax from his customers he must nevertheless pay the tax to the government and there is only one source from which he can secure the money, either by borrowing or by paying it out of capital reserves if there are any.

#### CONCLUSION

In conclusion, the following recommendations are respectfully submitted:--

1. The sales tax should be imposed only by



"the Dominion and should not be adopted as a method of collecting revenue by provinces or municipalities."

THE CHAIRMAN: Do you indicate anywhere in the Brief the number of provinces and municipalities that have adopted the sales tax?

MR. McCORMICK: There is only the Province of Saskatchewan and the City of Montreal at the present time. Alberta did have a sales tax but it was repealed.

COMMISSIONER ANGUS: Is there any suggestion that the Province of Saskatchewan had some other source of revenue it could have used?

MR. McCORMICK: We have not studied that question.

COMMISSIONER ANGUS: Or that it should have had some other source of revenue?

MR. McCORMICK: We feel that if there is to be a sales tax it should be uniform throughout all the provinces, and that one province only or certain municipalities should not impose a sales tax as a means of raising revenue. As to the particular situation in Saskatchewan, we have no information on that.

COMMISSIONER ANGUS: I can see the force of that, but I was wondering about its implications, because it would only be possible if there was some other source of taxation in Saskatchewan or some redistribution of expenditures that would free Saskatchewan from some of its present burdens; and I wondered if you had considered the implications.

MR. McCORMICK: No, we have not. I will continue with our Conclusions.

"2. Articles or materials which enter into the cost of the manufacture of taxable goods should not be subject to sales tax."





THE CHAIRMAN: How large a volume of goods would be covered by that exception? Have you considered that, Mr. McCormick? How would it affect the amount collected?

MR. McCORMICK: There is no means of ascertaining that, Mr. Chairman; You would have to take an inventory or a census, as it were, of manufacturers to ascertain how much they are paying.

THE CHAIRMAN: You see, the Minister of Finance, when he is considering his budget, must have some basis on which to estimate the tax yield, and if he was considering any exception, he would have to have some idea of the amount that would be involved in the exception.

MR. McCORMICK: The reason for that recommendation, Mr. Chairman, is simply the question of what is fair and equitable to the manufacturer who is manufacturing in Canada. There is no means of arriving at the amount which would be involved. It would be merely a guess at the best. The present system of sales tax, when it was established and came into effect through the legislation of 1923 contemplated one tax on an article at the stage where it had reached its highest degree of manufacturing, and there was not intended to be any tax on the preceding stages which led up to that degree of manufacture. But paying the tax on these articles means double taxation on the articles because the tax is included in the selling price on which the tax is collected.

THE CHAIRMAN: The original sales tax was a tax on the ultimate consumer, was it not?

MR. McCORMICK: The original sales tax in 1920 was a tax on sales of manufacturers and on sales of wholesalers.

THE CHAIRMAN: Whatever the original tax was, my recollection is that the retail merchant had to collect





it, but that was found so difficult to administer, that the collection was put on the manufacturer.

MR. McCORMICK: If I might explain, Mr. Chairman, when the sales tax came down in May, 1920, there were a number of other taxes brought down at the same time which applied on the retail selling price, and which were commonly known as luxury taxes. The sales tax was concurrent with these luxury taxes. The luxury taxes which were imposed in May, 1920, were removed by order in council in December, I think, of the same year, but the sales tax was at the same time extended and applied to sales by manufacturers to wholesalers, and to sales by wholesalers to retailers, and to importations.

THE CHAIRMAN: The original Act covered both the sales of manufacturers to wholesalers and the sales of wholesalers to retailers?

MR. McCORMICK: Yes.

THE CHAIRMAN: There was a double tax?

MR. McCORMICK: Yes.

THE CHAIRMAN: When was that changed?

MR. McCORMICK: On the first of January, 1924.

Legislation was brought down in the summer of 1923, and you will find in Appendix I which appears on page 6 of this Part of our Submission the statement that was made by the Minister of Finance when he made this change in the system which changed the whole basis of the tax. If you care to have me read now what he then said, I should be glad to do it.

THE CHAIRMAN: You might just explain it.

MR. McCORMICK: In the budget speech delivered on May 11, 1923, the Minister of Finance made the following announcement:

"A large proportion of the revenue comes from



"what is called the sales tax. Last year we were obliged to increase the amount of the tax considerably. We must admit that the tax is a burden and apart from the amount of it, the form in which it has been imposed has given rise to very much discontent. There are varying rates of taxes at the different stages of business enterprises,--6 per cent,  $4\frac{1}{2}$  per cent,  $3\frac{3}{4}$  per cent, and  $2\frac{1}{2}$  per cent; Many a good citizen who recognizes that the government needs money and who is willing to pay his fair share of the taxes, objects to the complexity of the sales tax. We are proposing to change it in the hope that we shall improve the situation. Our aim is now to impose this tax at its source, at the first stage of business operations, at which the tax is properly applicable. We propose that the tax shall be 6 per cent and that it shall apply on the duty paid value, both of homemade and of imported goods."

That is the present sales tax, which has continued for the last 15 years.

THE CHAIRMAN: With varying rates up and down?

MR. McCORMICK: Up and down.

THE CHAIRMAN: And at present it is 8 per cent on the domestic manufacturer?

MR. McCORMICK: And 8 per cent on imported goods.

I now turn back to our Conclusions:

" 3. Sales tax paid on merchandise sold to a customer, who becomes bankrupt or who makes a legal assignment before paying for the merchandise or the tax thereon, should be refunded by the Government to the manufacturer



"who has paid it."

THE CHAIRMAN: Why do you say that? One can appreciate that the manufacturer loses the tax, but it is he who gives the credit to his customer. It is he who takes the risk involved in giving credit. If he chooses to give credit on the sale of his own goods, which includes the sales tax, why should he not accept all the responsibility which goes with giving credit?

MR. McCORMICK: Because, Mr. Chairman, if you do not give credit you slow up the business turnover. If the manufacturer insisted on receiving his tax at the time he shipped his goods, he would sell fewer goods. It is business practice to give credit.

THE CHAIRMAN: I quite agree that as a matter of practice he could not insist on the sales tax being paid on one date and the goods being paid for on another date. But if he insisted on a cash sale, he would get the price of his goods, including the sales tax. If he decides to give credit, then he takes the risk of losing the whole thing. It is in the exercise of his business judgment that he gives credit, and is it not the logical result of his action in giving the credit, that he should stand the loss, if any? That is one of the hazards of business which every manufacturer must take into account.

MR. McCORMICK: We feel that it adds a considerable amount to the cost of collecting the tax for the government, and if there is a loss, which is ascertainable by reason of court proceedings through an assignment in bankruptcy, where there is a record of the transactions, we feel that in fairness to the manufacturer, when it has been definitely established that a loss has been incurred, the manufacturer should not be out the amount of the tax as well as his loss on the value of the goods,







because after all he has taken over a considerable burden in collecting that tax and remitting it to the government.

THE CHAIRMAN: Of course, if the man is a good business man and exercises care in giving credit, and follows up his customers to see that he gets his payments, he pays the tax and gets it back; but the man who may be less careful and who exercises not so good judgment in giving credit sustains a loss, and you feel that he should get a rebate of the tax he paid?

MR. McCORMICK: In times such as we have had in the last few years, it has not been a question of judgment in many cases, but rather of matters arising that are beyond the control of the customer.

THE CHAIRMAN: Oh, quite, there is no doubt about that.

MR. McCORMICK: And the manufacturer might have been quite justified in giving the credit. The customer may have always paid his accounts, but sometimes things happen that make it impossible for the customer to pay. It is not a question of bad judgment in those cases.

Now I continue with Paragraph 4 of our Conclusions:

"4. Government sales tax audits should be conducted annually and only in respect to the immediately preceding or current year's business, and, where a taxpayer has been audited and assessed and has paid the tax, such audit should be final and succeeding audits should not be made retroactive in respect to any period or periods for which returns have been previously audited, except in cases where there is evidence of deliberate fraud.

5. The various anomalies and inequities described in this brief should be removed as



"far as possible.

6. As the financial situation improves, the rate of sales tax should be reduced gradually and, when the revenue requirements of the Dominion will permit, this type of taxation should be discontinued."

Then I come to Appendix I, dealing with the origin and history of the sales tax in Canada. It shows the changes that were made in the sales tax, and gives the reasons that were set forth by different ministers of Finance when making reductions in the tax, and contains a statement showing the total net revenue from sales tax in comparison with the total net revenue from taxation generally:

#### APPENDIX I.

##### Origin and History of the Sales Tax in Canada.

"After the War the Dominion Government found that owing to vastly increased expenditures it was imperative to secure a very large amount of revenue from new taxes or by increasing existing taxes.

In the Budget Speech delivered on the 18th May, 1920, the Minister of Finance announced a number of taxation measures which were designed to provide additional revenue including a tax on sales by manufacturers, by wholesalers, and on imports. The following is the statement of the Minister of Finance when introducing the new form of tax:

'In view of the necessities of increased revenue a tax of 1 per cent on the sales of



"'all manufacturers, wholesalers, dealers and jobbers and importers is proposed.'

'The tax will not include retailers as such but will include the goods manufactured or imported by any retailer although manufactured or imported by such retailer for retail sale by himself.'

When the resolutions were being considered in Parliament the Minister of Finance announced that wholesalers and others had objected to the uniform rate of 1 per cent on the ground that it gave an advantage to the retailer who imported direct or who bought direct from the manufacturer, because the wholesaler when importing or buying direct from the Canadian manufacturer, had to pay 1 per cent and still another 1 per cent when he resold to the retailer. As a result of these objections the resolution was amended so as to provide that when a retailer imported direct or purchased direct from the manufacturer the tax was to be 2 per cent instead of 1 per cent.

On May 10th, 1921, the sales tax rates were increased and the principle of a differential between the tax on domestic goods and on imported goods was established. The new rate of tax on domestic goods was  $1\frac{1}{2}$  per cent on sales by manufacturers to wholesalers, and on sales by wholesalers, and 3 per cent on sales by manufacturers to retailers and consumers. With regard to imported goods the new rate was  $2\frac{1}{2}$  per cent on imports by manufacturers and by wholesalers, and 4 per cent on imports by retailers and consumers. A





"special rate of 2 per cent was established for lumber on domestic sales and of 3 per cent on importations.

The following year 1922 the rates were again increased. On domestic goods the rate became  $2\frac{1}{2}$  per cent on sales by manufacturers to wholesalers and on sales by wholesalers, and  $4\frac{1}{2}$  per cent on sales by manufacturers to retailers and consumers. On imported goods the rates were increased to  $3\frac{3}{4}$  per cent on importations by manufacturers and by wholesalers and 6 per cent on importations by retailers and consumers. The tax on lumber was increased to 3 per cent on domestic sales and  $4\frac{1}{2}$  per cent on importations. These rates continued in force down to December 31st, 1923.

In the Budget Speech delivered on May 11, 1923, the Minister of Finance made the following announcement:

'A large proportion of the revenue comes from what is called the sales tax. Last year we were obliged to increase the amount of the tax considerably. We must admit that the tax is a burden and apart from the amount of it, the form in which it has been imposed has given rise to very much discontent. There are varying rates of taxes at the different stages of business enterprises,--6 per cent,  $4\frac{1}{2}$  per cent,  $3\frac{3}{4}$  per cent and  $2\frac{1}{2}$  per cent. Many a good citizen who recognizes that the government needs money and who is willing to pay his fair share of the taxes, objects to the complexity of the sales tax. We are pro-





"posing to change it in the hope that we shall improve the situation. Our aim is now to impose this tax at its source, at the first stage of business operations, at which the tax is properly applicable. We propose that the tax shall be 6 per cent and that it shall apply on the duty paid value, both of homemade and of imported goods.'

The Minister of Finance stated that it was expected the new form of tax would do away with pyramiding and avoid duplication.

The new sales tax, which came into force on the 1st of January, 1924, was an entirely different form of sales tax from what had been in force for the previous three and a half years. A tax rate of 6 per cent was imposed which applied on sales by manufacturers and the same rate of 6 per cent applied on importations. The differential which had formerly existed between the rates on domestic sales and on imports was done away with. The principle established by the Act was that the tax was to be imposed once only, on products when they had reached that stage of manufacture in which they were ordinarily sold for consumption.

In addition to the manufacturer being liable for tax on his sales the tax was made payable on his purchases of materials for the erection of buildings, on machinery and other plant equipment, and even on materials used or consumed in connection with his manufacturing processes. The tax on these purchases increases the cost of manufacture.

In order to give effect to the expressed intention that the tax was to be paid once and once only, provision was made to permit the manufacturer



"to purchase or import free of tax materials which would be incorporated in or attached to a product which would be taxable when sold by the manufacturer thereof.

Recognizing apparently that the sales tax was unpopular for many reasons, such as the many technical problems it creates, the difficulty of administering the tax with equality, the extent to which it raised living costs, the diversion of trade from usual channels, duplication, etc., the Government made reductions in the rate of tax from time to time as quickly as the increase in other revenues permitted.

On April 11th, 1924, after the Act had been in operation for slightly over three months the rate was reduced from 6 per cent to 5 per cent. The next reduction was made on Feb. 18th, 1927, when the rate was reduced to 4 per cent. On Feb. 17th, 1928, the rate was reduced to 3 per cent. On March 2nd, 1929, the rate was reduced to 2 per cent, and the Minister of Finance made the following statement:

'The major reduction will be in the sales tax. This year a reduction of one-third of the tax is proposed. The reduction involves a large loss of revenue, but the tax is burdensome and its gradual disappearance meets with general commendation.'

On May 2nd, 1930, the rate was reduced to 1 per cent and in announcing the reduction the Minister of Finance made the following statement:

'A further major reduction is proposed in the sales tax by reducing it to one-half the present rate. It is estimated that this proposal effects a reduction in taxation of approximately twenty-two



'million dollars.

These reductions in taxation constitute a further step in the Government's policy which has been steadily applied for some years past, of reducing the public debt and at the same time reducing the burden of taxation.'

This trend was reversed during the trade depression, and the rate of sales tax was increased from time to time. The first increase was made on June 2nd, 1931, when the rate was increased from 1 per cent to 4 per cent. The following year, April 7th, 1932, the rate was increased to 6 per cent, and remained at that level for the next four years. In 1936, effective May 2nd, 1936, a further increase from 6 per cent to the present 8 per cent rate was put into effect. In his Budget Speech the Minister of Finance stated as follows:

'As a means of raising a substantial amount of the additional revenue which must be obtained in the ensuing year it is proposed to increase the rate of sales tax from 6 per cent to 8 per cent. It was our view that a moderate increase in the existing sales tax which covers the broad field of merchandise transactions and for which efficient and economical machinery for collection is already in operation would be clearly preferable to singling out a few particular items to bear an unjustly heavy burden. I do not intend to impose 'nuisance' taxes in an effort to raise more revenue but rather to utilize our existing taxation structure.'

Whatever faults may be attributed to the sales tax, there is no doubt that it has been effective in securing revenue for the Government, as the following table indicates:







PERCENTAGE OF TOTAL NET REVENUE FROM  
TAXATION REPRESENTED BY SALES TAX  
REVENUE.

Fiscal Year	Rate of Tax. Dom. Import.		Total Revenue (Net) from Sales Tax.
1920-21	1½%-2%	1½%-2%	\$38,128,064
1921-22	1½%-3%	2½%-4%	61,272,751
1922-23	2¼%-4½%	3¼%-6%	89,755,036
1923-24	2¼%-4½%	3¼%-6%	98,004,656
From Jan. 1,			
1924	6%	6%	
1924-25	5%	5%	63,180,050
1925-26	5%	5%	72,894,570
1926-27	5%	5%	81,195,502
1927-28	4%	4%	70,661,090
1928-29	3%	3%	62,639,788
1929-30	2%	2%	44,114,148
1930-31	1%	1%	20,146,700
1931-32	4%	4%	41,734,701
1932-33	6%	6%	56,813,813
1933-34	6%	6%	61,391,400
1934-35	6%	6%	72,447,311
1935-36	6%	6%	77,551,974
1936-37	8%	8%	112,832,259

(Table continued on the next page )



PERCENTAGE OF TOTAL NET REVENUE FROM  
TAXATION REPRESENTED BY SALES TAX  
REVENUE.

Fiscal Year	Total Revenue (Net) from taxation.	Percentage of Total represented by Sales Tax.
1920-21	\$368,770,498	13.34%
1921-22	319,926,013	19.15%
1922-23	335,453,341	26.75%
1923-24	341,718,807	28.68%
From Jan. 1, 1924		
1924-25	293,914,518	21.49%
1925-26	327,575,013	22.25%
1926-27	346,669,272	23.42%
1927-28	364,705,803	19.37%
1928-29	395,921,028	15.99%
1929-30	378,551,626	11.65%
1930-31	296,276,396	6.80%
1931-32	275,053,603	15.17%
1932-33	254,318,801	22.37%
1933-34	271,851,549	22.58%
1934-45	304,443,729	23.79%
1935-36	317,311,809	24.44%
1936-37	383,550,869	29.19%

MR. McCORMICK: That table shows the net amount collected from sales tax, the net revenue from all taxation, and the percentage which the sales tax bears to the total revenue.

THE CHAIRMAN: The amount now collected from sales tax forms such a substantial part of the total national income that there would not appear any great likelihood of it being wiped out in the future unless you can suggest to the



government some other form of taxation that would produce equally satisfactory results.

MR. McCORMICK: We cover that point by saying that as the financial situation warrants the rate of sales tax should be gradually reduced in the same way the Minister of Finance reduced it between 1925 and 1930, at the rate of 1 per cent at a time so as not to disturb business and cause serious loss to those who had stocks on hand.

THE CHAIRMAN: Of course, the costs of government have increased in the last seven or eight years, and if such increases had taken place in the years between 1925 and 1930 the budget in those days might have been upset. However, we are going to hear more from you, I understand, when we go to Toronto, where the problems of finance will be dealt with.

MR. McCORMICK: Yes. Next is Appendix II, dealing with Excise Taxes, and there are two additions to be made to the appendix as printed in the brief. In the second column after the item "Pullman car and parlour car seats," there should be inserted, "Berths in Sleeping cars, 10 per cent of the price paid, with a minimum tax of 25 cents." Then in the item "Letters and postcards mailed to Canadian addresses, there should be added after the word "addresses" the words "or transmitted by post for any distance in Canada".

Appendix II follows:

#### APPENDIX II.

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##### Excise Taxes

In addition to the sales tax, and to the 3% import tax, the following excise taxes are applicable under the Special War Revenue Act:

(Note: These taxes are applicable to both domestic and imported goods except where otherwise noted below).





## APPENDIX II.

## Excise Taxes

## (a) TAXES ON MERCHANTABLE COMMODITIES:

Passenger automobiles valued at more than \$650.00

5% on the amount in excess of \$650.00, provided that in no case shall the tax exceed \$250.00 per automobile.

Toilet articles, preparations or cosmetics 10%

Toilet soaps, not to include shaving soaps, or shaving creams 5%

Devices commonly or commercially known as lighters 20%

Provided that such devices when combined with pencils, cigarette or other cases 10% on the combined value.

## Cigars:

(a) Valued at not more than \$40.00 per M. 50¢ per M.

(b) Valued at more than \$40.00 per M. but not more than \$110.00 per M. \$3.00 per M.

(c) Valued at more than \$110.00 per M. and not more than \$150.00 per M. \$7.00 per M.

(d) Valued at more than \$150.00 per M. and not more than \$200.00 per M. \$10.00 per M.

(e) Valued at more than \$200.00 per M. \$16.00 per M.

Sugar and Sugar Syrups. (This tax is not payable when such materials are imported or bought in bond in Canada by recognized sugar refiners for further manufacture 1¢ per lb.

Glucose and grape sugar (except when for use exclusively in the manufacture of leather and artificial silk  $\frac{1}{2}$ ¢ per lb.

## Tires and tubes:

(a) Tires 2¢ per lb.

(b) Inner tubes 3¢ per lb.

Note: When purchased by Canadian manufacturers of automobiles who attain certain percentages of Empire content in their factory production, this excise tax does not apply.

Matches  $\frac{3}{4}$ ¢ per 100 or fraction of 100 in each package.

But

On packages containing between 30 and 60 Matches  $\frac{3}{8}$ ¢ per package.





## APPENDIX II.

## Excise Taxes.

On packages containing between 21 and 30 matches	3/16¢ per package.
On packages containing less than 21 matches	3/20¢ per package.
Cigarette papers	2¢ for each 100 leaves or fraction of 100 leaves contained in each package.
Cigarette paper tubes	2¢ for each 100 tubes or fraction of 100 tubes contained in each package.
Playing cards	10¢ per pack.
Wines:	
(a) Non-sparkling	7½¢ per gal.
(b) Sparkling wines	75¢ per gal.
Note: The excise taxes on wine do not apply on imported wines.	
(b) TAXES APPLICABLE TO SERVICES:	
Cables and telegraph messages, including radio messages	5¢
Long distance telephone calls:	
(a) Where the call costs more than 15¢	6%
But	
(b) Calls from public pay stations costing more than 25¢ up to 80¢	5¢
and for each additional charge of 80¢ or fraction of 80¢	5¢
provided that the tax on no long distance call shall exceed 25¢.	
Pullman car and parlour car seats	10¢
Berths in Sleeping cars	10 per cent of the price paid, with a minimum tax of 25¢.
Cheques, money orders and travellers' cheques:	
(a) Not exceeding \$100.00	3¢
(b) Exceeding \$100.00	6¢
Postal notes:-	
(a) Not exceeding \$1.00	1¢
(b) Exceeding \$1.00	3¢
Bills of exchange or promissory notes:	
(a) Not exceeding \$100.00	3¢
(b) Exceeding \$100.00	6¢



## APPENDIX II.

## Excise Taxes.

Sales, transfers, or assignments of stocks, bonds, etc.,

- (a) Bonds 3¢ per \$100.00
- (b) Stocks:
  - (i) Sold or transferred at over \$150.00 per share  
4¢ per share, plus 1/10 of 1% of the price or  
value in excess of \$150.00
  - (ii) Over \$75.00 per share but not more  
than \$150.00 per share 4¢ per share
  - (iii) Over \$50.00 per share, but not more  
than \$75.00 per share 3¢ per share
  - (iv) Over \$25.00 per share, but not more  
than \$50.00 per share 2¢ per share
  - (v) Over \$5.00 per share but not more than  
\$25.00 per share 1¢ per share
  - (vi) Over \$1.00 but not more than \$5.00 per  
share 1/4¢ per share
  - (vii) \$1.00 or less than \$1.00 per share  
1/10 of 1% of the price or value

Letters and postcards mailed to Canadian addresses  
or transmitted by post for any distance in  
Canada. 1¢ each

The sales tax of 8 per cent applies on motor cars,  
toilet articles, soaps, lighters, cigars, sugar syrups,  
glucose, grape sugar, tires, tubes, matches, cigarette  
paper and tubes, playing cards and wines, in addition to  
the above specified excise taxes, so that these combined  
taxes on the manufacturer's sales price are a heavy charge.

Nearly all these excise taxes set forth above are levied  
on manufactured goods. Most of the revenue from them must be  
collected by manufacturers who produce them.

While these taxes are really consumers' taxes and are paid  
by consumers in the majority of cases, nevertheless in some  
cases competition at home and from abroad forces the manufact-  
urers to pay part of the taxes themselves.

These taxes have a certain restricting influence on trade



"because their addition to the prices of goods raises the selling price very considerably to consumers."





THE CHAIRMAN: Do you regard some of these taxes as a continuation of the old luxury taxes, if not in form, in spirit?

MR. McCORMICK: Some of them are somewhat in the nature of the luxury taxes, but in a restricted sense.

THE CHAIRMAN: Soap would hardly be a luxury.

MR. WALSH: It would in some places.

THE CHAIRMAN: It might be in some places.

MR. McCORMICK: There are also taxes applicable to services, which are set out in Appendix II.

THE CHAIRMAN: The tax on pullman car and parlour car seats is imposed, I suppose, on the theory that those who use them can afford to pay taxes better than some other people.

COMMISSIONER DAFOE: I suppose there is no question that your Association would be very much opposed to the policy which was embodied in the suggestion at the 1936 session that there should be a constitutional amendment which would permit the levying by the provinces of indirect taxation, the object being to give the provinces practically a free hand in levying the sales tax. Your first recommendation is specific on that point.

MR. McCORMICK: While I have no instructions on that point, Mr. Commissioner, I would think we would be opposed to that.

COMMISSIONER DAFOE: Yes, your Conclusion is specific.

MR. McCORMICK: Our recommendation is definitely that the sales tax should be a federal tax.

COMMISSIONER DAFOE: I just wanted to point out the statement that was made in Parliament at that time by the Minister of Finance or the Minister of Justice, that all the provinces were agreed that such a constitutional amendment should be made, which indicates that the



provinces in lieu of other sources of revenue have got their eyes fixed firmly on the sales tax as a possible source of future taxation. I think that was a very clear indication of a future possibility.

THE CHAIRMAN: Have you any questions to ask, Mr. St. Laurent?

MR. ST. LAURENT: Just one or two, Mr. Chairman.

By Mr. St. Laurent (of Mr. McCormick):

Q. You say, Mr. McCormick, in paragraph 3 of your Conclusions;

"Sales tax paid on merchandise sold to a customer, who becomes bankrupt or who makes a legal assignment before paying for the merchandise or the tax thereon, should be refunded by the government to the manufacturer who has paid it."

That would be a new principle in connection with this tax that goes into the price of imported and even domestic goods, that it should be remitted because of the insolvency of the purchaser? A. No, I do not think so.

Q. The importer who pays customs duties on goods that are resold, but for which he does not receive payment, gets no rebate from the Customs Department? A. No.

Q. And with respect to the excise tax, if the tobacco manufacturer, for instance, who has to affix excise stamps to his goods is unfortunate enough to sell them to a customer who does not pay for them, he does not get a rebate? A. I would not make the same statement in regard to that tax, because I would be rather inclined to think that on proof of loss an allowance would be made.

Q. On excise stamps? A. On excise stamps. I have no record of such cases, but I would be inclined to think that in an actual case of loss, not on the sale of the



goods, but a loss in the factory--

Q. By the destruction of the merchandise? A. Yes.

Q. Oh yes, possibly in that case, but once the goods have been sold, there is no rebate, even if the purchaser does not pay for them? A. No.

Q. So the sales tax is in fact treated in the same way as customs and excise duties that go into the cost of the article? A. Except as you regard the manufacturing as the collector of the tax for the government. The Customs houses are collectors of the Customs duties. If the Custom house fails to collect the tax, the official collectors are not made to reimburse the government for the loss.

Q. No, no, but the Customs duties, of course, are taxes that are supposed to be passed on to the consumer.

A. But I am drawing a distinction between the government collecting customs duties and collecting the sales tax on imported goods, whereas the manufacturer collects the sales tax for the government on domestic goods, and remits the tax to the government.

Q. He collects it for the government and remits it in a certain number of cases. There are cases, as you point out, where he cannot because of existing conditions pass that on to the consumer, and he has to absorb it as a part of his own costs. Referring now to your first Recommendation that "The sales tax should be imposed only by the Dominion and should not be adopted as a method of collecting revenue by provinces or municipalities," do you intend to include the sales tax on gasoline, for instance, or is that tax looked upon as being in a special category? A. I think that is regarded as being in a special category.

Q. So that recommendation does not necessarily apply





to that special tax? A. Not necessarily.

THE CHAIRMAN: I assume we may take it, Mr. McCormick, that your general recommendation on sales tax is this, that it bears heavily on the consumer by reason of its being passed on from manufacturer to wholesaler and from wholesaler to retailer, and it is subject to those anomalies and inequalities which you have suggested, and that by reason of those considerations the Dominion sales tax should be reduced as rapidly as Dominion finances would permit, and the principle of the sales tax should not be extended to the provinces or municipalities?

MR. McCORMICK: Exactly.

THE CHAIRMAN: That is a fair summary of your contention?

MR. McCORMICK: That is right.

MR. WALSH: That is all we have to submit at the present time, Mr. Chairman, but we understand that we shall have an opportunity of appearing again later on, if it is considered wise by our executive.

THE CHAIRMAN: We thank you, Mr. Walsh, for the presentation you have made on the taxation question. The problems arising out of it are very interesting and important, and your whole Brief will receive our most careful consideration. We should be glad if at the Toronto hearing you would supplement your submissions by covering the points that were mentioned yesterday, and if you desire to add anything further which will throw light on the problems with which we have to deal, we shall be very glad to have the information.

MR. WALSH: As a national organization well established all over Canada, it is fair to assume, I think, Mr. Chairman, that we shall take advantage of the opportunity





to answer some questions that may arise later on.

THE CHAIRMAN: Thank you.

Next on the list is the Life Insurance Companies. Mr. Leighton Foster, I understand, appears for the Life Insurance Companies.

MR. R. LEIGHTON FOSTER, K.C., General Counsel for the Canadian Life Insurance Officers Association, was called.

SUBMISSION BY

THE CANADIAN LIFE INSURANCE OFFICERS ASSOCIATION

MR. R. LEIGHTON FOSTER: Mr. Chairman, and Members of the Commission, our submission is in printed form, of which a copy is before you, and I now present this copy in order that it may be marked as an exhibit.

EXHIBIT No. 92 : Submission by the  
Canadian Life Insurance  
Officers Association.

THE CHAIRMAN: You are General Counsel, Mr. Foster, for the Canadian Life Insurance Officers Association?

MR. FOSTER: Yes, Mr. Chairman.

(Page 2490 follows)



INTRODUCTION TO LIFE INSURANCE BRIEF

I shall now read the brief:

"This brief, which has now been marked Exhibit 92, is submitted by the Canadian Life Insurance Officers Association, an organization formed in 1894 by companies transacting life insurance in Canada to foster sound and equitable principles in the conduct of the business and to promote the welfare of the companies and their policyholders. Its membership is composed of forty-five (45) Canadian, British and foreign companies representing ninety-nine point eight per cent. (99.8%) of the life insurance in force in Canada. Upwards of three and one-half million (3,500,000) Canadians hold policies in these companies, and while the Association in making this presentation cannot contend that it has any direct mandate from them to speak on their behalf, it holds the view that from its knowledge of the business it should express what it believes to be in their best interests.

There is scarcely any phase of the Commission's enquiry in which the life insurance policyholders and the business of life insurance are not to some extent interested. The task has been to select those matters of particular interest to life insurance. Accordingly, the submissions now made are limited to certain pertinent information respecting the place of life insurance in the social and economic life of Canada; the importance to life insurance of assets and interest thereon; the necessity of maintaining the public credit; jurisdiction over debts and the relief of debtors; jurisdiction over life insurance; and finally some general



principles which it is believed should be borne in mind when investigating the taxation of life insurance companies, policyholders and beneficiaries and the incidence of succession duties. Appended to the brief will be found information respecting the character and amount of taxation imposed upon life insurance in Canada.

It is difficult to foresee at this stage of the investigation every matter and possible development of interest to life insurance and life insurance policyholders. The privilege of submitting a supplementary brief at a later date, in the event it seems desirable to do so, will be greatly appreciated. The services of the officers of the Association are at the disposal of the Commission in the event further information is desired regarding the supporting and underlying details of this submission.

The business of life insurance in Canada is essentially national in character and, for that reason, among others, the Association wishes to assure the Commission that, in approaching its work along broad national lines and recommending what is best for Canada as a whole, it has the full support of the interests represented by the Association.

POSITION OF LIFE INSURANCE IN  
THE SOCIAL AND ECONOMIC LIFE  
OF CANADA

The following information concerning the position of life insurance in the social and economic life of Canada is submitted for the assistance of the Commission:





LIFE INSURANCE IN CANADA. There are approximately six and one-half billion dollars (\$6,500,000,000) of life insurance in force in Canada. On the best available evidence it is estimated that this insurance is held by more than three and one-half millions (3,500,000) of the people of Canada, that is to say, by approximately one-third of the entire population. It follows that the average amount of insurance carried by Canadian policyholders is less than two thousand dollars (\$2,000).

SAVINGS OF 3,500,000 POLICYHOLDERS. The premiums paid in 1936 by Canadian policyholders totalled approximately two hundred and ten million dollars (\$210,000,000). A large proportion of the annual savings of the Canadian people is invested in life insurance.

ASSETS \$2,500,000,000: AVERAGE SHARE \$350. The assets of the Canadian life insurance companies and the assets in Canada of the other than Canadian companies operating in Canada exceed two and one-half billion dollars (\$2,500,000,000). These assets have been built up by accumulations of small premium payments. The average share of each policy in these assets is approximately three hundred and fifty dollars (\$350).

BUSINESS OF LIFE INSURANCE INTERNATIONAL. The business of life insurance companies is international in character. In the year 1936 Canadian life insurance companies received in premium income from policyholders outside of Canada approximately one hundred and thirty-one million dollars (\$131,000,000). This amount represented forty-nine per cent. (49%) of the total premium income



of Canadian life insurance companies for that year. The aggregate premium income for the year 1936 in Canada of British and foreign companies amounted to seventy-three million dollars (\$73,000,000)."

THE CHAIRMAN: You state that approximately 50 per cent of the entire premium income of all Canadian life insurance companies is derived from their foreign business?

MR. FOSTER: Yes, sir.

THE CHAIRMAN: Then in a number of companies it must be substantially more than 50 per cent, because there are a number of Canadian companies who do no foreign business.

MR. FOSTER: That is quite true. I continue:

"GOVERNMENT SUPERVISION OF LIFE INSURANCE. The character of the supervision and regulation exercised by the federal and provincial governments in Canada over life insurance companies and their business indicates quite clearly the universal interest of all citizens in the business and its national importance. No other business is so closely scrutinized or supervised by governments.

The most intimate details of the operations of the life insurance companies and the life insurance business are available to everyone who will examine the government reports and consult the officials of the Insurance Departments throughout Canada.

CONTRIBUTION OF LIFE INSURANCE TO PUBLIC WELFARE.

All except a very small percentage of Canadian policyholders are people in modest circumstances. Were it not for the savings represented by life insurance, the danger of many people becoming burdens upon the state would be greatly increased.



During the depression years from 1929 to the end of the year 1936, one billion, one hundred and thirty-five million dollars (\$1,135,000,000) was paid by life insurance companies to policyholders and their dependents in Canada, exclusive of payments made under policy loans privileges, which were so largely exercised during this period. This amount exceeded the total paid by the Federal, provincial and municipal governments to recipients of unemployment and other relief during the same period."

THE CHAIRMAN: Have you the amount of the loans during that period, Mr. Foster?

MR. FOSTER: That is readily available in the governments reports. I shall be glad to file a memorandum covering it.

THE CHAIRMAN: I was under the impression that, by reason of the depression, there was a very large amount loaned to life insurance policyholders, those who needed the money to carry on during that period, and I was wondering what the facts were.

MR. FOSTER: That is very true. Those figures are readily available, Mr. Chairman. I continue with the brief:

#### IMPORTANCE OF ASSETS AND INTEREST THEREON TO LIFE INSURANCE

Assets are Accumulated Savings of Policyholders. The total assets or investments of the companies are simply the aggregate of the small average savings of our people who have banded together to carry their own burdens as much as possible and to save the community from providing relief to themselves and their dependents. The immense investments of life insurance companies in Canada are made up of





small amounts contributed by very many individual members of the community and are really held by the companies, not as owners in the commonly accepted sense of the word, but as custodians for the policyholders.

Why Accumulation of Assets is Necessary. The assets of the life insurance companies are held to meet the obligations to policyholders as they fall due under their policy contracts. Since the cost of life insurance protection increases with the age of the policyholders, while the yearly premium charge remains level; and since funds have to be built up to meet endowment policies as they mature; and since limited premium contracts have to be carried after premium payments have ceased, large liabilities to policyholders accumulate. This makes essential the setting aside of a portion (mathematically calculated) of each premium and investing it at interest, in order that the necessary assets may be built up to provide for these liabilities and thus enable the companies to fulfil their contracts with their policyholders. It is these accumulations from millions of small premiums that constitute the assets of the companies, all of which must be invested at interest.

Importance of Interest. The importance of interest in the business of life insurance is not generally appreciated. While it might be theoretically possible to carry on the business of life insurance without interest earnings, the premiums charged policyholders on all plans would have to be increased in such circumstances to such an extent .





(in some instances more than 50%) as to make it practically impossible to do so.

How Assets are Invested. That the funds entrusted to the care of the companies have been employed in the best interests of the country can be seen by the character of their investments. They include Dominion, provincial and municipal bonds to develop our resources, provide schools, roads, street paving, sidewalks and waterworks; mortgages to assist in the development and improvement of agriculture and the furnishing of equipment; mortgages to build and improve homes and business properties; mortgages and bonds to furnish equipment for they carrying on of business and increasing business earning power and to finance power plants, railroads, industries and public utilities generally. It has been said that life insurance has a greater stake in Canada than any other single industry. It is apparent that the amenities of life and employment of labour are due in no small measure to the gathering together and investment of the small savings of the millions of individuals who have purchased life insurance.

#### THE IMPORTANCE OF PUBLIC CREDIT

Life Insurance Dependent upon the Maintenance of Public Credit. The life insurance companies are probably the most important single source of long-term funds for public borrowers.<sup>X</sup> They hold very

<sup>X</sup>(See MacMillan Report: Section 26, subsection 5, page 14, of the Report of the Committee on Finance and Industry presented to the British Parliament by the Financial Secretary of the Treasury, June, 1931.)



large amounts of Dominion, provincial and municipal bonds, the prompt payment of which at maturity, and of the contractual interest thereon, is of first importance to them in order that they in their turn may make prompt payment to their policyholders. Therefore the collapse of public credit in certain public bodies (for example, at one time in recent years more than 10% of the total municipal indebtedness of Canada was in default either as to principal or interest) and the threatened collapse in others, constitute one of the most ominous developments in Canada from the standpoint of life insurance."

THE CHAIRMAN: In reference to the first statement in this paragraph, have you any figures as to Canada? You say: "The life insurance companies are probably the most important source of long term funds for public borrowers." Then, you refer us to the MacMillan Report. I assume that is the report of the English commission presided over by Lord MacMillan.

MR. FOSTER: Yes.

THE CHAIRMAN: I was wondering if you had any figures in relation to Canada or whether you assumed from the fact that it is so in England it is probably so in Canada.

MR. FOSTER: I have no figures to support that submission, Mr. Chairman. The extent of the holdings of the companies is well known, of course.

THE CHAIRMAN: Is it given anywhere here?

MR. FOSTER: No, Mr. Chairman.

THE CHAIRMAN: Is there any reason why you should not give us the total amount of Dominion Government Bonds held by all these companies in Canada and the total amount of municipal and provincial securities?



MR. FOSTER: We shall do that.

THE CHAIRMAN: I presume they appear in the annual reports.

MR. FOSTER: They do.

THE CHAIRMAN: And can be tabulated?

MR. FOSTER: They are all tabulated in the Dominion Blue Book.

THE CHAIRMAN: It would be interesting, as part of this submission, if we had before us in support of the general statement by you the amount of funds the life insurance business is providing for public undertakings.

MR. FOSTER: I have some figures here which will be of assistance to you. At the end of 1935, the Dominion Bureau of Statistics stated that the total net direct debt of the dominion, the provinces and the municipalities was \$5,314,693,276 and that the guaranteed or indirect debt amounted to \$1,472,176,197, making a total grand aggregate public net direct and guaranteed or indirect debt of Canada of \$6,786,869,473.

The Canadian life insurance companies at the end of 1935 held

Dominion Government Bonds	\$176,804,751
Provincial	112,962,527
Canadian Municipals	<u>137,217,678</u>
	<u>\$426,984,956</u>

To this total of \$426,984,956 should be added the holdings of American and British insurance companies doing business in Canada. Comparing the total so obtained with the total public debt as above, it will be seen that the total holdings of life insurance companies of such public securities is considerably less than 10%. While the percentage of these holdings to the







total assets at the end of 1935 of Canadian life insurance companies is approximately 23%, they represent much less of an interest in the total public debt.

In other words their holdings bulk very largely in their own portfolio, but they by no means have a dominant position among the bondholders.

COMMISSIONER ANGUS: Would they be mainly long term bonds? It applies usually to long term bonds.

MR. FOSTER: I should say 'yes'; but the figures are available, and when the facts are available I prefer not to guess. I continue with the brief:

"Creation of Public Debt. All governments find great difficulty in controlling the creation of debt in the face of public demands for increased expenditures. While the natural desire of legislators is to keep public borrowings to a minimum, no machinery exists to provide an automatic brake on the creation of public debt by the Federal government or by the provincial governments apart from the occasional difficulty experienced in marketing bonds. In respect of municipal borrowings, provincial legislation devised to limit the amount of debt which any municipality might incur has proved in many instances ineffective. Not only has some of this legislation been ineffective per se, but provincial governments have sometimes made its evasion possible. For example, in some provinces where the general law requires municipal by-laws authorizing the borrowing of money for certain capital expenditures to be submitted for the assent of the ratepayers before they are passed, a Board established by the government has been given authority to waive, and has waived,



the requirements of the general law with sometimes disastrous results. In but few provinces has there been any effective check upon municipal borrowing."

THE CHAIRMAN: Will you help us there by indicating the provinces where there has been an effective check on municipal borrowing.

MR. FOSTER: I cannot help you this morning, but I shall be very glad to have a supplementary memorandum prepared and filed. The brief continues:

"Undue Public Borrowing Should be Checked. Public opinion is so insistent upon --

THE CHAIRMAN: Before you continue with your brief I should like to ask you this question. You say:

"In some provinces where the general law requires municipal by-laws authorizing the borrowing of money for certain capital expenditures to be submitted for the assent of the ratepayers before they are passed --- " etc.

I was under the impression that in some of the provinces -- Saskatchewan, I think, being one, although I am not certain -- a municipality could not borrow without the approval of the board. Are you familiar with that?

MR. FOSTER: I am not familiar with that, Mr. Chairman. I know the laws and the practices differ in the different provinces. I continue:

"Public opinion is so insistent upon certain forms of expenditure being made that some governments will always have difficulty in refraining from borrowing the funds with which to meet such demands so long as there is no system created to constitute an effective check upon public borrowings. The expansion of the



services and functions of government is, of course, one of the underlying causes of the condition which led to the appointment of the Commission. It is submitted that one of the most important tasks facing the Commission is the development and recommendation of some system which will restrict in some effective way undue borrowing by Canadian public bodies. It would seem that something along the lines of the Council set up under the Australian Constitution, which would be empowered to pass judgment upon all public borrowings and be free of local and partisan influences, must be established if the credit of all public bodies throughout Canada is to be placed in a sound position."

THE CHAIRMAN: Now, does your association consider that whatever body is set up it should be one that controls municipal as well as federal and provincial borrowings, or just what is the view in reference to that, Mr. Foster?

MR. FOSTER: I have no doubt, Mr. Chairman, but what at that stage in our submission we had in mind a provincial board.

COMMISSIONER:SIROIS: Would it be a federal commission?

MR. FOSTER: Just what it would be, Mr. Commissioner, has not been decided upon. In that sense I could say the association thinks so and so, but I am not in a position to say that at the moment. That is as far as we go in our submission at this stage, and what we say has the unanimous support of all the companies. Manifestly there are all shades of opinion among our companies and their executives, and that will be evident as





one peruses our submission a little farther. If the Commission would place any value on a supplementary submission at a later date when we know the facts which you are now covering, we shall be glad to present it, if it will be of any assistance to you.

THE CHAIRMAN: I see you do suggest that there should be something along the lines of the council set up under the Australian constitution.

MR. FOSTER: I think we cite that, Mr. Chairman, as an example of the fact that something can be done rather than what was done in Australia would be particularly suitable here. I continue with the brief:

"Reallocation of Government Responsibilities and Taxing Powers. The associated problem is that of the reallocation of responsibilities and taxing powers among the Federal, provincial and municipal governments. The maintenance of the public credit of Canada demands that public bodies having the power to create debt should have sufficient revenue to provide adequately for the payment of interest on their debts and the amortization of their debts within a reasonable period of time. Some way must be found to enable present debt burdens to be borne more easily. It would appear that this cannot be accomplished otherwise than by a reallocation of government burdens and revenue sources.

The Association believes that it has no authority to venture into the field of controversy involved in a determination of what burdens with regard to social services such as unemployment insurance, old age pensions, mothers' allowances, child welfare and municipal and agricultural relief should be allocated to the different





government bodies, i.e. federal, provincial or municipal, or of what corresponding sources of revenue should be assigned to the several governments. Nevertheless, it does believe that these twin problems are among the most important faced by Canada and that the Commission will have the substantial support of all far-sighted Canadians when it approaches them in their broad national aspect seeking only what is best for Canada as a whole.

Apart from any reallocation of government responsibilities, governments should be alert to avoid new and to shed old burdens wherever possible. An example of the latter is afforded by Dominion government annuities. Dominion government annuities were originally conceived by legislation in 1908 and were intended to operate as a basic scheme for old age pensions for people in modest circumstances who might otherwise become a charge on the state in their old age. The history of its operation since that date makes it reasonably clear that it is people not so likely to need old age assistance who have been taking advantage of the scheme. Furthermore, legislation introduced by the Dominion and the various provinces since 1927 now makes provision for old age dependency so that the need for these annuity contracts, as originally contemplated, has been greatly modified. It would seem that if the sale of annuities by the government is to be continued, then they should neither be sold at a substantial annual cost<sup>#</sup> to -----

<sup>#</sup> In 1936 the Banking and Commerce Committee of the Canadian Senate reported, after a lengthy investigation, that "the Annuities Branch estimates these losses to be about \$400,000 for the past year (1935). The evidence submitted by others however, indicates that the loss was probably greatly in excess of this amount."

Mr. Watson, Actuary of the Department of Insurance, pointed out before the Senate Committee, "The debt arising out of the sale of annuities is rolling up at compound interest, and will mature some day with unpleasant rapidity."

As stated by the Canadian Chamber of Commerce in a memorandum to the Senate Committee dated May 21, 1936, "No provision is made, moreover, in the premium rates charged, for overhead expenses of the Annuities Branch of the Department of Labour in addition to the actual cost of administration in Ottawa and the Post Offices throughout the country. This expense is paid for by other taxpayers and not, as it should be, by only those who purchase annuities."



the taxpayers of Canada nor involve the state in the danger of exceedingly heavy potential losses.

New burdens should be assumed only after most careful and thoughtful consideration. At the present time our governments are giving consideration to unemployment insurance, health insurance, and other social insurance legislation, and this Association strongly urges that, before any plan is decided upon, care be taken to ensure that it can and will be carried out economically and efficiently. Any plan of social insurance must meet the test of actuarial soundness. Duplication of services must be avoided. Costs must be controllable and expensive administrative machinery must be shunned. The scheme must be fair to the community as a whole. Life insurance companies in Canada have gone on record on several occasions placing their organization, resources and experience and the experience of their officers at the disposal of our governments.

#### DEBT.

Jurisdiction. At present jurisdiction over the principal of debts is supposed to reside at least to some extent in the provinces, while jurisdiction as regards interest is deemed to be a Dominion matter. In our opinion this distinction is an unnatural and unworkable one. There is, as a matter of fact, no difference between the contractual obligation to pay interest and the contractual obligation to pay principal. One is as binding as the other and the laws relating to them should be coordinated.

In a well-ordered commonwealth, jurisdiction over debts should be complete and exclusive in





one authority. Divided jurisdiction in Canada is largely responsible for the difficulties encountered in solving our debt problems. Obligations to repay money borrowed abroad arising out of international commitments and alternative currency options make it impossible for the Dominion to retire wholly from the debt field, even if such a proposal were tenable on other grounds. There is a widely held opinion among the officers of our Association that jurisdiction respecting both the principal and interest of debts should be vested in the Dominion."

THE CHAIRMAN: You say, under the existing legislation the Dominion Government annuities do involve the state in a substantial annual cost; that is, the amount paid for the annuities by the annuitants is not on an actuarial basis.

MR. FOSTER: Yes, Mr. Chairman. We, of course, are only making reference to Dominion Government annuities as an illustration of what we mean when we say that the government should be alert to avoid new and to shade old burdens where possible. It would occur to one that if the Dominion Government annuities are not fulfilling the purpose for which they were originally conceived, and if in fact they are costing the taxpayers of Canada a lot of money, then possibly that is a burden which should be put off, or if they are going to be continued and sold they should no longer be sold at a cost to the taxpayer.

COMMISSIONER DAFOE: Is there material showing a breakdown of the people who have annuities which would indicate that the original purpose is not being met to a considerable degree; that is, the people are buying in small amounts with a view to providing for their old age?





MR. FOSTER: My recollection, Mr. Commissioner, is that when the Banking and Commerce Committee of the Senate investigated this matter a couple of years ago there was evidence brought before the committee to the effect that it was not poor people so much as the wealthy people who were taking advantage of this form of protection, shall I say.

COMMISSIONER DAFOE: These facts are obtainable?

MR. FOSTER: On the other hand, if you refer to the Banking and Commerce Committee report referred to in the evidence before the committee you will find the material you have in mind.

THE CHAIRMAN: I notice you say on page 9 in your footnote that:

"In 1936 the Banking and Commerce Committee of the Canadian Senate reported after a lengthy investigation, that 'the Annuities Branch estimates these losses to be about \$400,000 for the past year (1935). The evidence submitted by others, however, indicates that the loss was probably greatly in excess of this amount.' "

That is Mr. Watson, the accountant of the Department of Insurance?

MR. FOSTER: Yes.

THE CHAIRMAN: I believe the rate charged for these annuities has been increased within the last year.

MR. FOSTER: About a year ago, Mr. Chairman; my recollection is they were increased 15 per cent.

THE CHAIRMAN: Have you any information as to whether or not this increased rate is still less than what would make it actuarially sound?

MR. FOSTER: My understanding is that the rates are are substantially inadequate in the sense they do not yield



revenue sufficient to set up the necessary reserves and to pay the commissions to government agents who sell these annuities, and to pay the expense of maintaining the government branch. But I want to emphasize, Mr. Chairman, that we raised this question only as an example of the kind of burden which possibly the government may shade and not with the thought of making any special submission on the subject.

THE CHAIRMAN: I think there is some force in what you say about the people in a position to take advantage of it. I remember some friends of mine telling me they had purchased these government annuities, and that it was about the best investment they could find for funds. That was shortly before the increased rate went into effect. Of course, the amount anyone can purchase is limited to \$5,000.

MR. FOSTER: It was formerly \$5,000; it is now \$1200.

THE CHAIRMAN: That would probably change the situation very materially.

MR. FOSTER: It has been \$1200 since 1932, if I recollect rightly. According to the information disclosed before the Senate Committee in 1936 the volume is going up very, very rapidly, notwithstanding the maximum that can be bought is \$1200 a year.

THE CHAIRMAN: There does not appear on the surface to be any reason why it should not be on a self-supporting basis, in view of the provision for old age pensions, and so on. Still, there may be some reason. We may hear from the head of the department some good reason for it, and we must keep an open mind until we hear both sides of all these questions.

MR. FOSTER: Yes.



THE CHAIRMAN: In regard to the last sentence in the paragraph you just read, would it not require an amendment to the B.N.A. Act to bring that about?

MR. FOSTER: Yes.

THE CHAIRMAN: You say that by reason of the international and interprovincial character of debts, the dominion must continue to have a measure of jurisdiction because the provinces cannot handle the whole problem; and you argue, , that being so, the whole jurisdiction should be given to the dominion?"

MR. FOSTER: Many of our officers think that, Mr. Chairman. I continue with the brief:

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Interest in relation to debt. Suggestions respecting adjustment of debts to enable them to be borne more easily usually take the form of proposals to refund outstanding obligations at reduced rates of interest. The very existence of interest is deplored - the very right of interest to exist is denied - in some quarters. Interest is fundamental, and interest and rent are so closely related as to be almost synonymous terms. The rights of the individual to own private property would be, to a large extent, empty and barren if he were deprived of the privilege of lending his property for interest or rent. There are those who would eliminate interest, though not revealing that such is their ultimate purpose, and unfortunately, sometimes encouragement and support is extended to them by other persons who, while they would be strongly opposed to the abolition of private property, do not always appreciate their own dependence upon interest.

There is a great need for increasing understanding as to the essential place interest occupies in economics. Every citizen is prepared at all times to take the necessary steps to protect his cash and other easily recognizable assets. On the other hand, many citizens are at times ready to acquiesce in measures which may have the effect of wholly or partially destroying other assets in which they are interested, such as life insurance, because the value and vulnerability of these other assets and the effect on them of what is proposed are not so



generally understood and appreciated. Arbitrary measures taken to reduce interest rates mean that investors, especially those with modest investments, may suffer such losses as will place them in dire distress.

Investors in their various categories, and particularly as life insurance policyholders, include a large proportion of the people. In considering the interests of the people as taxpayers, consideration should also be given to the interests of the same people as life insurance policyholders. After all, in the neighbourhood of three and a half million (3,500,000) Canadians have entrusted all or part of their savings to the life insurance companies, and the safekeeping and ultimate return of those savings to the people depend largely upon interest and its certain and prompt payment.

Relief of Debtors. The relief of debtors at the expense of creditors has grown to a point in some provinces where Governments have undertaken by changes in the law to relieve groups of debtors from their contractual obligations whether or not such debtors are actually in distress and quite regardless of their ability to pay. Why should the distress of large groups of debtors, many of whom may be able to meet their obligations in full, be relieved by blanket legislation at the sole expense of any group in the same or another community? If the emergency is such as to call for Government intervention, should the distress not be relieved at the expense of the taxpayers generally? At no time in Great Britain or the United States has any Government undertaken to relieve the distress of



debtors at the expense of creditors, although frequently in the United States public funds have been used to refinance private debts."

THE CHAIRMAN: You are quite clear that is the case, Mr. Foster? You are quite clear that none of the so called "New Deal" legislation in the United States has relieved private debtors at the expense of creditors?

MR. FOSTER: I have personally looked into that very closely, Mr. Chairman, in a rather peculiar connection. I found that some of our American friends could not understand just what was happening to their Canadian investments, and what was going on in some provinces, until they found out that legislation was being passed in Canada and coming to be accepted almost as a matter of course, of a character which could not be passed in the United States.

THE CHAIRMAN: The 14th Amendment of the American constitution prevents the legislature from interfering with contracts or taking private property except under due process of law, and that would render legislation in the United States, which would automatically reduce either interest or principle, quite apart from the question of bankruptcy, unconstitutional.

MR. FOSTER: Yes.

THE CHAIRMAN: But it would be constitutional if it were limited to those who were financially embarrassed or bankrupt.

MR. FOSTER: That is my understanding, Mr. Chairman.

COMMISSIONER ANGUS: You would not look upon the dollar depreciation as a relief to debtors?

MR. FOSTER: I did not have that in mind, Mr. Angus.

COMMISSIONER MACKAY: You would not include bankruptcy legislation?





MR. FOSTER: I do not think we had that in mind when we were making that particular submission.

COMMISSIONER DAFOE: You rather draw attention to the blanket provision which means that people are relieved from the process of law?

MR. FOSTER: Yes, and I think we develop the thought.

COMMISSIONER DAFOE: So they could not be obliged to meet their obligations, which in fact they would be able to meet if there was not this blanket protection.

MR. FOSTER: Yes, and I think we develop that thought further in the next paragraph.

COMMISSIONER SIROIS: Would it be possible for your to give us the list of the legislation you refer to, provincial and federal?

MR. FOSTER: Yes.

COMMISSIONER SIROIS: Because the Farmers' Creditors' Arrangement Act and Companies' Creditors' Arrangement Act are both federal laws.

MR. FOSTER: Yes.

COMMISSIONER SIROIS: It may be well to have some provincial laws also.

MR. FOSTER: There will be further submissions made to you along these lines.

COMMISSIONER MACKAY: Is there not some American legislation similar to our Farmers' Creditors' Arrangement Act and the Companies' Creditors' Arrangement Act?

MR. FOSTER: I understand not; and there could not be under the constitution of the United States.

THE CHAIRMAN: There could be, if the farmers were bankrupt.

MR. FOSTER: Oh, yes.

THE CHAIRMAN: And that is the basis upon which our Farmers' Creditors' Arrangement Act was supported by the courts, both by the Supreme Court and the Privy Council.



As I recall the judgments they state these acts, when properly construed, do fall within the dominion power to legislate on bankruptcy and insolvency.

MR. FOSTER: Yes. I do not hold myself out as an expert on the history and character of the United States legislation, but I do know that legislation along the lines of our Farmers' Creditors' Arrangement Act has been proposed in the United States, and I have been told that were it not for the constitution, probably legislation of that character might have been passed.

COMMISSIONER MACKAY: What about state debts? Is there not some legislation --

MR. FOSTER: In regard to public obligations?

COMMISSIONER MACKAY: In regard to the repudiation of state debts?

MR. FOSTER: Not with which I am familiar.

COMMISSIONER ANGUS: Some states of the United States have repudiated state debts.

MR. FOSTER: Louisiana and Mississippi.

COMMISSIONER ANGUS: About thirteen altogether.

MR. FOSTER: I am not personally familiar with that except by hearsay. I continue with the brief.

"Could not something be done in the interest of creditors either by way of an amendment to the British North America Act, 1867, guaranteeing the maintenance of certain minimum property and civil rights and liberties, or by way of a more general use of the federal power of disallowance to make certain that one group of citizens is not deprived of property rights for the benefit of another group contrary to traditional British principles and to the familiar provisions in the United States Constitution? Life insurance policyholders are creditors. The companies are



merely the middlemen - the custodians of their savings. The property rights of policyholders should be safeguarded."

COMMISSIONER SIROIS: Does the federal power to disallow still exist?

MR. FOSTER: In the past, Mr. Commissioner, when it was generally deemed to exist, I believe some people thought it was not exercised as much as it might be.

THE CHAIRMAN: I have no doubt we shall soon have a decision on that point from the Supreme Court.

MR. FOSTER: The brief continues.

"Life insurance companies --- "

THE CHAIRMAN: It is only recently that its existence has been doubted.

MR. FOSTER: We are suggesting, Mr. Chairman, assuming it still exists, it might be used a little more freely.

THE CHAIRMAN: Mr. Foster, your association presents an alternative proposal there. Of course, you must all be familiar with the long discussions that have taken place with reference to the exercise by the dominion of the power of disallowance, and certain difficulties that are incidental to the exercise of such power. Do you consider whether, from your point of view, it would be better to have some provision in the constitution that would guarantee certain fundamental rights, or do you want to leave it under the power of disallowance?

MR. FOSTER: No, Mr. Chairman, I do not believe that we would favour one or the other. You will observe that what we have to say in this connection is put in the form of a question as it were, rather than a submission. If our opinion on a particular suggestion would be of any assistance to you we should be very glad to give it





after we have discussed the matter with our companies.

THE CHAIRMAN: It is much easier to raise these questions than it is to solve them.

MR. FOSTER: Yes.

THE CHAIRMAN: If we are to get real value from the submissions of these dominion organizations we must have, in addition to the raising of the questions, the view of the organizations as to its solution, if they find it possible to express unanimity of opinion on it.

MR. FOSTER: Yes. I believe we have been pretty definite in most of our submissions.

THE CHAIRMAN: I think you have. You have been more definite than some of the other organizations.

MR. FOSTER: And I think you may take it with respect to this particular point, that there are alternative submissions that could be given; but we suggest something along this line might be done.

THE CHAIRMAN: There is this difference, which is fundamental: One is the constitutional safeguards, such as they have in the United States constitution. It may not necessarily be the same provision, but there could be a provision in the constitution. The other is, public policy determined by the government of the day. My point was whether your association, in making this suggestion, had any conviction as to which of these proposals you felt to be more in the public interest.

MR. FOSTER: No doubt you will find all shades of opinion among our people, Mr. Chairman. They are unanimous in going as far as they have gone. I shall now continue with the brief:

"Life insurance companies are not unmindful of the debtor. They recognize that many debtors, owing to circumstances beyond their control, have



been unable to meet their obligations and yet have made sacrifices in an attempt to do so. The record of the companies is one of sympathetic understanding and cooperation with honest debtors who are unable to meet their obligations. It is well known that the companies have voluntarily gone very far in alleviating genuine distress among their mortgagors and other debtors and in assisting them to meet their obligations and rehabilitate themselves. No change in the law was necessary to force the companies to adjust accounts with their debtors on the basis of ability to pay. The companies had been following such a practice for many years. At the same time the role of the life insurance companies is essentially that of the middleman standing between the policyholder on the one hand and mortgagors and others to whom policyholders' funds are loaned on the other. While the life insurance companies recognize that their investments must be subject to ordinary business risks, they submit that they cannot be expected to withstand losses resulting from legislation preventing able-to-pay debtors from fulfilling their obligations and at the same time protect the safety and security of their policyholders. Legislative relief of debtors and legislative encouragement to debtors not to meet their obligations cannot be pushed beyond a certain point without imperilling the security of the policyholder.

#### Life Insurance Policyholders as Creditors

No life insurance policyholder in Canada has in the past suffered a loss through failure of any company to pay any proper claim promptly and fully.



The soundness of the life insurance plan has been demonstrated through good times and bad, pestilence and war, and even recently in periods of subversive provincial legislation. While the history of life insurance has demonstrated its ability to survive natural crises, it has yet, however, to prove that it is invulnerable to man-made laws. There are only one hundred cents in every dollar. It is fundamental that a man who is dependent upon the honesty and good faith of his debtors cannot continue to pay his creditors if his debtors do not pay him. The ability of life insurance companies to fulfil their contracts with policy holders and to make the payment called for without deduction or abatement depends directly upon the willingness of their debtors, in turn, to fulfil their obligations to the best of their ability and make payments to the companies. If mortgagors, governments, and financial, industrial and commercial corporations which have borrowed money from the insurance companies do not or are not permitted to return, in due course, the money to fulfil their contracts, then the life insurance companies cannot continue to fulfil their contracts with their policyholders. In recent years some people have forgotten the simple economic truism that if a debt is not paid, someone loses."

(2525 follows)





" JURISDICTION IN LIFE INSURANCE.

Government Supervision. The life insurance business in Canada is at present subject to supervision and regulation by both the dominion and the provinces. The Case presented to the Commission by the province of Manitoba adequately describes the controversy which has arisen from such dual control in the past and includes a suggestion that the supervision and regulation of the business should be undertaken exclusively by the dominion. While there is much to be said for this suggestion as recognizing the national character of the business and the desirability of the elimination of any duplication of government services, nevertheless the provinces have for many years undertaken to enact legislation respecting life insurance contracts and to license life insurance agents in a manner quite acceptable to all. Through the medium of the Uniform Life Insurance Act uniformity of legislation in these matters has been attained in eight out of nine provinces.

Association's Submission. The problem has been considered and thoroughly discussed by the executives of the member companies, in consequence of which the following resolution was unanimously adopted by the Executive Committee of this Association at its meeting in Toronto on December 7th last:

The Canadian Life Insurance Officers Association, the membership of which includes the executive officers of practically all life insurance companies transacting business in



"Canada, suggests that the law of life insurance contracts as exemplified by the Uniform Life Insurance Act of the Canadian Provinces and comparable provisions in the Quebec Civil Code, and the licensing of life insurance agents, be within exclusive provincial jurisdiction, but that all other matters concerning the supervision (licensing, solvency, investments, inspections and reports) of life insurance companies doing business in more than one province, and the regulation of life insurance business generally, be within the exclusive jurisdiction of the dominion."

This association submits that the foregoing resolution recognizes the national character of the life insurance business in its proper relation to local interests and existing political and other conditions in Canada and hopes that the Commission will recommend that the British North America Act, 1867, be amended to give effect to the substance of the foregoing resolution and to make certain that the respective powers of the dominion and the provinces with respect to life insurance are clearly defined to the end that in the future controversy may be avoided.

#### TAXATION

#### OF LIFE INSURANCE COMPANIES, POLICYHOLDERS AND BENEFICIARIES.

Commission's Instructions. The Commission is instructed 'in particular .... to investigate the character and amount of taxes collected from the people of Canada, to consider these in the light of legal and constitutional limitations, and of



"financial and economic conditions, and to determine whether taxation as at present allocated and imposed is as equitable and as efficient as can be devised ..... Life insurance policyholders, as has been shown, represent a large proportion of 'the people of Canada.' and the taxation imposed upon them and their beneficiaries directly, and through life insurance companies indirectly, is very substantial. Unfortunately the full extent of this taxation is not generally appreciated because it is largely indirect taxation which the life insurance policyholder does not pay directly. Accordingly, there will be found appended to this submission schedules containing particulars of the character and amount of these taxes, together with other information within the scope of your enquiry. The discussion of the subject which follows is limited to statements of principles and matters of policy which, it is believed, particularly deserve the attention of the Commission.

Duplication and Multiplicity of Taxation.

Duplication of taxation, multiplicity of taxation generally and discriminatory taxes imposed by one municipality or province against the residents of other municipalities or provinces are much in evidence in the life insurance field."

I may point out that in the margin of the submission there is a reference to the particular schedules in the appendix in which supporting data will be found.

" There is an apparent tendency to treat citizens of one part of Canada as foreigners for the purpose of taxation in another part of Canada, thus promoting sectionalism and impairing national unity. Detailed





"submissions are doubtless being made to your Commission by other bodies regarding these matters. This Association would favour any system of control of taxation in Canada which would eliminate duplication and unfair discrimination between different parts of Canada, and which would promote national unity."

THE CHAIRMAN: You say, "see appendix Schedules C and D." What are the particular illustrations you have in mind?

MR. FOSTER: The references C and D, which will be found on page 28 through to page 34, describe the provincial and municipal taxes imposed on life insurance companies and also give the statutory authorities.

THE CHAIRMAN: Yes; but the statement made in the submission is that there is a tendency, by taxation in one province, to discriminate against those operating from another province.

MR. FOSTER: One illustration of that was given yesterday, I believe, by the Canadian Manufacturers' Association in connection with New Brunswick.

THE CHAIRMAN: But does that apply to insurance as well?

MR. FOSTER: No, it does not.

THE CHAIRMAN: I thought, from your submission, that there were some of those that applied to insurance companies.

MR. FOSTER: Not in the life insurance field that I am aware of.

COMMISSIONER DAFOE: It is a general observation.

MR. FOSTER: Yes.

COMMISSIONER SIROIS: You say here that,



among other things, discrimination is much in evidence in the life insurance field.

MR. FOSTER: Yes, duplication of taxation, multiplicity of taxation generally and discriminatory taxes imposed by one municipality or province against the residents of other municipalities or provinces.

COMMISSIONER SIROIS: But you are speaking of discriminatory taxes.

MR. FOSTER: There are many illustrations of taxes imposed by municipalities in varying amounts; these are given in the schedules. But the Chairman's question was directed at the next sentence: "There is an apparent tendency to treat citizens of one part of Canada as foreigners for the purpose of taxation in another part of Canada", and so on.

COMMISSIONER SIROIS: You use the words "discriminatory taxes".

MR. FOSTER: There are some examples. For instance I believe that Nova Scotia taxes a non-resident life insurance agent \$50, whereas a resident agent pays only \$5. I can look that up for you. But, again, that is a tax against the agent and not against the company.

COMMISSIONER MACKAY: Do you know of any provinces that impose a heavier tax on a company incorporated in another province?

MR. FOSTER: I have no information in that regard.

" Indirect Taxes on Policymolders Paid  
through Companies.

The fundamental principle of life insurance is one of mutual cooperation. Many cooperate to assume a risk which the individual could not bear alone. It is only right and proper that this



"cooperative enterprise should continue to be subject to the same general taxes which are imposed on individuals, partnerships and corporations. In addition, the relatively small cost of insurance supervision and regulation is reasonably chargeable to the insurance companies. The fact is, however, that in addition to the burdens borne by all classes in the community, the business of life insurance has been compelled to assume other heavy burdens through a variety of forms of special taxation levied by the provinces and the municipalities. Policyholders pay as citizens all the usual forms and rates of taxes that citizens who do not carry life insurance pay.

Because of the nature of life insurance, taxation ostensibly imposed on life insurance companies is borne almost entirely by the policyholders. The tax levied by all the provinces on varying bases and at different rates upon the premiums received annually by life insurance companies accounts for nearly ninety per cent. (90%) of the special taxation imposed upon life insurance companies."

The reference to this will be found in Schedule A.

THE CHAIRMAN: Where does that appear?

MR. FOSTER: On page 26. You will see, in the case of the provincial premium tax, the total figure in the right hand column is \$3,256,300 and the total shown at the bottom of that column is \$3,669,237. But the point which is not generally realized is this:

"Upwards of eighty per cent. (80%) of the life insurance in force in Canada has been





"written on participating plans whereunder policyholders may reasonably anticipate and do receive refunds of premium, so-called 'dividends' or 'profits' at regular intervals. It follows that premium taxes are directly reflected in reduced refunds made to the great majority of Canadian policyholders and in a consequent higher net cost of insurance. The companies serve only as tax-collecting agencies when taxation is imposed upon premiums received on participating forms of life insurance. The indirect character of the tax -- the fact that it falls indirectly but unmistakably as a special additional tax on the thrifty people -- the people who are voluntarily making provision for their families, dependents and employees -- should always be borne in mind when the taxation of life insurance is under consideration. To be borne in mind also is the fact that life insurance relieves governments of the potential burden of relief, old age dependency, and other social services. The social benefits inherent in life insurance are readily apparent. Unfortunately they are overlooked too frequently when additional revenues are required by governments.

The lack of uniformity in the bases and rates of taxation, particularly provincial premium taxation, and the multiplicity of special taxes imposed by the provincial and municipal authorities throughout Canada produce the following results:

- (1) The cost of life insurance to the public



"is increased.

(2) Policyholders resident within the jurisdiction where taxes are relatively low bear a portion of the taxes which are imposed within jurisdictions where they are relatively high.

(3) Life insurance companies incur substantial expense in maintaining appropriate records, in assembling information and in furnishing tax returns on a variety of forms to many jurisdictions.

By reason of the fact that the contractual obligations of life insurance companies generally extend many years into the future and that most premiums are paid annually (the amount being fixed at the date of issue of the contract,) the problem of taxation as it affects life insurance companies differs from that of an industrial corporation which can adjust prices readily to meet the necessities of increased taxation.

The effect is particularly evident in the case of the provincial premium taxes. As these taxes have been imposed and increased from time to time, they have had a retroactive effect in that they have been made applicable not only to premiums in respect of new contracts, but also to premiums in respect of contracts issued many years prior to the date of imposition of the tax."

THE CHAIRMAN: You say that the premium is fixed at the time that the policy is issued, and it is fixed upon an actuarial basis which will enable the insurance



company to pay the amount of the policy when it matures. That is the basis of the premium. Then you say that after that has been done the premium tax is increased and you cannot increase your premium, which is a fixed amount, the result being that you are unable -- depending of course upon the amount of the premium tax -- to accumulate as much as you otherwise would to the credit of that policy, if it is a participating policy or the company is a mutual company.

MR. FOSTER: I think your question is anticipated in part in the next two sentences:

"This retroactive feature is particularly serious in connection with non-participating business. The imposition of taxes having this retroactive effect might impair the solvency of the companies."

Or course, in the case of participating business, taxes would have to be very high before they would do more than affect the dividend or refund of premium which the policyholder periodically receives.

" Furthermore, from a practical point of view it is desirable, although the rates of taxation may differ, for the companies to treat their Canadian business as a unit and not to differentiate between the policyholders of one province as against those of another in respect of premium rates or policy dividends. Consequently, not only is the premium tax a substantial imposition upon policyholders as distinct from other Canadian citizens, but the varying rates of tax now imposed produce inequities between





"individual policyholders resident in different provinces.

Concerning municipal taxation, it is submitted that when the fields of regulation (licensing) and taxation (premium taxes) have been occupied directly by a superior taxing authority, it is clearly undesirable for numerous reasons that the same fields should also be occupied by municipalities. In every province of Canada these fields have been so occupied. In most of them municipalities have been prohibited from imposing such additional fees and taxes, but there are municipalities whose right to do so antedates the prohibiting legislation."

Full particulars of that will be found in the Schedule.

" With respect to any special taxation on life insurance companies, it is submitted:

(a) that the principle of the premium tax is acceptable because its administration is simple and effective, and because it can be made equitable it should replace all other forms of special taxation of life insurance by provinces and municipalities;

(b) that the formula for calculating the taxable premium income should be fair and both the rate of tax and formula should be uniform throughout Canada, and that, if necessary to accomplish this end, its assessment, collection and distribution should be centralized;

(c) that the rate should be fixed as low as possible because the premium tax is a special tax not shared by all the citizens of Canada



"generally, but paid by prudent citizens who, by buying life insurance, voluntarily make sacrifices so that they and their dependents shall not become charges upon the state; and that changes in rate should apply only to premiums on business written after the effective date of the change;

(d) that existing doubts as to the constitutionality of the present premium tax should be removed by an appropriate amendment to the British North America Act, 1867, making it clear that such taxation is within exclusive provincial or dominion jurisdiction."

THE CHAIRMAN: Has that question been raised in the courts as to the right of a province to tax premiums?

MR. FOSTER: It was raised in the Supreme Court of Ontario in 1914 in a case involving the Canada Life Insurance Company.

THE CHAIRMAN: With what result?

MR. FOSTER: Mr. Justice Middleton held that the Ontario Act was intra vires, but the course of the argument seemed to raise a great deal of doubt in everyone's mind; and the facts being as described this morning, I believe that most counsel would agree that it is pretty close to indirect taxation. However, there should not be any doubt about it if the premium tax is approved in principle.

" Direct taxes on Policyholders.

If the matter of imposition of income taxes is one which comes within the purview of enquiry by the Commission, it is submitted that the



"principle should be established and maintained that capital, as distinct from income thereon, shall not be taxed. This submission is particularly applicable to payments under annuity and life insurance contracts.

Annuitants and beneficiaries under policy contracts, the proceeds of which are payable in instalments, whether or not a life contingency is involved, are in receipt of payments which represent partly a return of capital and partly payment of interest. Representing such persons, whose numbers are increasing, the Association submits that for taxation purposes a clear distinction should be drawn to the end that only the portion of such payments which truly represents interest shall be subject to income tax."

THE CHAIRMAN: At the present time, is the total amount of annuity subject to income tax?

MR. FOSTER: In the past two or three years the department has been interpreting the Act as meaning that the full amount of instalment settlement and the full amount of annuity is subject to tax, unless, being an annuity, it is similar to that issued by the dominion government. There is one section of the Income Tax Act which formerly provided an exemption up to \$5,000, now an exemption up to \$1,200 with respect to annuities issued by any government in Canada, which means the dominion government, or respecting like annuity contracts issued by any company, subject to the annuity being able to qualify under that exemption. The department is claiming a tax upon the total amount of the annuity payment or





instalment settlement, and submissions are presently being made to the Minister of Finance suggesting an amendment to the law along the lines of the submission which we are placing before you.

" Moreover it is suggested that any taxation should encourage rather than discourage these instalment payments since this method of paying insurance money tends to preserve the benefits and the insurance over longer periods and to make more certain that the recipients will never become burdens on the state. In this connection attention is drawn to the recent amendments to the Ontario Succession Duty Act which have a comparable purpose (Statutes of Ontario, 1937, Cap. 3, S.6).

The Succession Duty Acts of the several provinces have given rise to duplication of taxation, and to delay in the settlement of claims. There is also great diversity in the exemptions accorded to life insurance policy proceeds and to policies earmarked for payment of succession duties. It is submitted that there should be no duplication or double taxation, that the rates and incidence of the tax should be uniform throughout Canada, and that the prompt payment of small life insurance claims should be facilitated.

#### Possible Reallocation of Taxing Powers.

If, as and when there is an assumption of further responsibility by the dominion for social services such as unemployment insurance, unemployment relief, etc., there will doubtless



"be some reallocation of taxing powers to give the dominion exclusive jurisdiction in some of the fields of taxation now occupied by the provinces. In that event it is suggested that succession duties and premium taxes and income taxes are the kind of taxes which in the interests of uniformity and equality and efficiency might well be transferred to the dominion.

#### Conclusion.

The Canadian Life Insurance Officers Association, in respectfully making these submissions thanks the Commission for the privilege and opportunity extended to it. The association has dealt chiefly with matters pertaining to life insurance, but has endeavoured to relate them to the general national interest. It is recognized that Canada as a nation is facing a crisis, in meeting which considerations of national interest should always prevail over narrower interests of whatever nature. From the standpoint of the maintenance of public credit, special emphasis is placed upon the necessity of allocating governmental responsibilities and revenues in such manner as will recognize fairly proper national viewpoints and, as far as possible, enable all important public bodies to discharge their respective functions and to finance their obligations, thus bringing far-reaching benefit to all parts of Canada. The association believes that it voices the hopes and expectations of the people



"of Canada in expressing the wish that the recommendations of the royal Commission may lead to legislation which will enable Canadians to realize more fully the ideals of the Fathers of Confederation in seeking to create within the boundaries of Canada one great and happy nation.

Respectfully submitted on behalf of  
the association.

G. W. Goddes,

President."

THE CHAIRMAN: There are two points upon which I should like to get some further information before we come to the appendices. Can you tell us what percentage of the profits of the life insurance companies -- I am referring to the stock companies -- goes to the shareholders?

MR. FOSTER: There is a statutory maximum of 10 per cent under the Canadian and British Insurance Companies Acts, but none of the medium sized or the large companies take the percentage allowed by law. Some of the smaller companies, whose shareholders have had no substantial returns at all in the early years of those companies, are still taking the maximum of 10 per cent.

THE CHAIRMAN: Take the larger companies: what rate are they taking?

MR. FOSTER: It varies from zero to 6 or 7 per cent, which is the most taken by the middle sized companies.

THE CHAIRMAN: So that the profits, the earnings





of these stock life companies, except for this percentage, go to the policyholders.

MR. FOSTER: Yes, if you disregard their non-participating business. Most of our Canadian stock companies, although not all, write insurance on the two plans that are known respectively as the so-called participating plan and the co-called non-participating plan. You are no doubt familiar with the distinction between the two.

THE CHAIRMAN: Take the non-participating plan; what about the profits in that case?

MR. FOSTER: In the case of the non-participating plan, the profits if any -- and I have not heard anyone suggest in recent years that there have been any -- go to the shareholders.

THE CHAIRMAN: In addition to or as part of that 10 per cent?

MR. FOSTER: In addition to that percentage.

THE CHAIRMAN: Quite apart from that?

MR. FOSTER: Yes.

THE CHAIRMAN: The 10 per cent relates to the participating policy?

MR. FOSTER: The participating policy is sold on the representation that the policy holder will receive certain so-called dividends or profits as earned, and the law says that he must get at least 90 per cent. As a matter of fact, in practice he gets upwards of 95 per cent.

THE CHAIRMAN: Take the mutual companies; they issue non-participating policies, do they not?

MR. FOSTER: Yes. There are only two mutual companies.



THE CHAIRMAN: One is very large.

MR. FOSTER: Yes. They issue non-participating policies, although I understand that is a small percentage of their total business.

THE CHAIRMAN: The profits, if there are any, on non-participating policies would go to the other policyholders?

MR. FOSTER: Yes, to the participating policyholders.

THE CHAIRMAN: The other question is this. You were discussing legislation with respect to debts. Were you speaking only of private debts, or did you mean public debts as well?

MR. FOSTER: Exactly in what context?

THE CHAIRMAN: In your discussion of legislation with a view to reducing interest. I should have asked the question when you were on that point.

MR. STEWART: It will be found on pages 10 and 11.

MR. FOSTER: The question of jurisdiction over debts ?

THE CHAIRMAN: Yes. Do you mean debts provincial and municipal as well as private debts?

MR. FOSTER: Yes.

THE CHAIRMAN: I should like to get your opinion on this point, if you are able to express one. Our bankruptcy legislation, up to date, applies only to corporations as opposed to governmental bodies. Assuming that it should appear, as has been contended before the Commission already, that a provincial government is not able to meet its obligations: there is no machinery whereby those obligations can be readjusted, as there is



in the case of a private corporation. What do you suggest should be done in a case of that kind?

MR. FOSTER: Speaking for the Association, I do not think that I can make any suggestion. If it would be of assistance, I should like to put that question to our committee and endeavour to bring back to you a unanimous opinion.

THE CHAIRMAN: I think it would be of assistance, because you have pointed out to us that the members of your Association are very large holders of provincial government securities and municipal securities as well. You stress the importance of interest, and one recognizes that. Now suppose a province finds itself in the position where it can not meet its obligations and its revenues are not adequate to carrying the present rate of interest on its public debt; what should be done?

MR. FOSTER: That is, assuming that there has been a reallocation.

THE CHAIRMAN: No; I am dealing with the situation as it stand to-day. We were told, both in Manitoba and Saskatchewan, that those provinces could not meet their liabilities and they proposed, at least Manitoba did, a refunding at reduced rates of interest, the dominion to take over certain liabilities, and so on. The point is this. If you were dealing with the securities of a private corporation, the Bankruptcy Act or the Companies Creditors' Arrangement Act would be available to that corporation, and your companies would then make such an arrangement as might appear sound and equitable and one that would be approved by the courts. We have no such machinery in the case of the provinces, and I think it





would be helpful to the Commission if we had the benefit of the views of your Association as to the way in which that situation should be dealt with. We had suggestions from the provinces as to how it should be dealt with, but we should like to know what the bondholders of the provinces think in this regard.

MR. FOSTER: Certainly we will discuss that matter. In our discussions these questions have come up. In the first place, important bondholders though life insurance companies may be, they hold something less than 10 per cent of the total public debt. In one particular province, for example, they hold probably not more than 10 per cent, and the other bonds outstanding in that province are held by people outside of Canada, and there are considerations of national credit, and other considerations of considerable importance, that must not be lost sight of. I believe that our people have been hoping that as a result of some reallocation of governmental responsibilities and tax sources, ways and means would be found to service these debts, so that it would not be necessary to establish the machinery which you are now suggesting.

THE CHAIRMAN: I am not suggesting whether or not machinery should be established; I am merely asking for some suggestion as to how the matter should be dealt with. We have the specific statement of the Manitoba government that they cannot meet their obligations unless they can get a refunding at a substantially reduced rate of interest; they declare that unless something of this kind is done, even with the changes which they themselves suggest with respect to the allocation of responsibility



and so on, they cannot carry on. I am assuming that to be correct -- I am only putting it in the form of an assumption. Can your Association, then, give us any help by expressing an opinion as to whether the suggestion of the Manitoba government is a feasible one, or have you any alternative suggestion with respect to the question? I appreciate the fact that you may find it difficult yourself, as counsel, to answer this question; but it would be helpful if we had the views of your Association on the point.

MR. FOSTER: You will readily understand, Mr. Chairman, that we are following your proceedings very closely. We are going to be greatly interested in what some of the other provinces have to say with regard to Manitoba 's submissions in that connection. Our submissions with respect to the future are pretty strongly put forward. I believe that the bondholders are going to be, shall I say, somewhat more tolerant, if they can be assured that this sort of thing will not happen again. The life insurance companies have always indicated their willingness to sit around the table with debtors who are in distress and work out some arrangement. We will certainly give the matter further consideration, and if we can reach some more or less unanimous opinion with respect to what appears to be useful to the Commission, we shall be glad to make another submission.

THE CHAIRMAN: And we shall be glad to hear it. I can quite understand that your Association, representing so many different interests, may conceivably find it difficulty to reach unanimity; but if you could reach unanimity on some practical proposal that might be helpful



we should be glad to hear it.

COMMISSIONER DAFOE: On that point, if you are answering this question, you might consider the alternative put forward in Saskatchewan, where it was suggested very vaguely that there should be some sort of refunding operation whereby creditors should be given the option of taking bonds at a lower rate or accepting a cash payment in full. That is an important alternative.

MR. FOSTER: Yes, we will consider that.

THE CHAIRMAN: Did you intend to discuss the appendix ?

MR. FOSTER: I do not think it is necessary for me to direct your attention to anything in the appendix. The Association rather felt that, by reason of the terms of your reference, it might assist your permanent staff to have gathered together in convenient form certain facts which otherwise you would have to seek through individual companies.

THE CHAIRMAN: It is very convenient to have the information in this form.

COMMISSIONER MacKAY: On page 10, referring to social insurance, you make this statement:

" Any plan of social insurance must meet the test of actuarial soundness. Duplication of services must be avoided. Costs must be controllable and expensive administrative machinery must be shunned."

What do you mean by the statement that costs must be controllable ? Do you mean administrative costs?

MR. FOSTER: Yes. We had in mind all costs, not only benefit costs by expense costs; and I believe we had





further in mind the fact that attention must be paid to the use of the term "insurance." In that connection I was interested to hear what was said yesterday on the subject. So long as the term "insurance" is to be used to describe a certain plan, then certain fundamentals must be borne in mind. If a particular plan of insurance assistance is in question, where there is no thought of an insurance foundation, as it were, then these matters presumably can be left to public policy. I think that is what we had in mind.

COMMISSIONER MacKAY: You say that expensive administrative machinery must be shunned. Are you referring to provincial or federal machinery?

MR. FOSTER: No, we are not making any submission in that regard. What we had in mind was that the objective sought to be attained by the adoption of these various social health insurance plans should be crystal clear to everyone. Sometimes it would seem that the sponsors of these plans have given too little thought to the way in which costs are to be controlled, the means whereby expensive administrative machinery should be avoided, and that sort of thing.

COMMISSIONER MacKAY: Your association has not thought out any plan by means of which such machinery can be avoided.

MR. FOSTER: No, because with the exception of the health insurance bill in British Columbia there has been no plan. With the exception of the 1935 dominion Act, which was a federal matter, there has been no plan of that character discussed in this paragraph. No such plan has actually come before any legislature in Canada --



at least no plan that I am familiar with.

THE CHAIRMAN: It is a warning to legislatures rather than to us.

MR. FOSTER: And put forward in the hope that you will pass it on.

COMMISSIONER MacKAY: The great problem is the division of administration. I merely point this out as a suggestion, because it seems to me that your organization should have some valuable ideas to offer in this regard.

MR. FOSTER: This is really a request that we be invited to sit in when plans of this kind are receiving consideration, in the hope that we might put forward some suggestions which would accomplish the purposes outlined. In Great Britain, the national health insurance plan is administered through the cooperation of friendly societies, which have literally thousands of little lodges scattered throughout the country, and the administration has been very effective and cheap by reason of the utilization of these friendly societies and their subordinate lodges operating under the British plan. Unfortunately, our friendly societies in Canada are not so organized, so that that particular precedent would not serve us here. It may be however that when these plans are in the formative stages our association and its principal companies may be able to make some contribution which would accomplish some of the purposes indicated.

MR. STEWART: In the United States, supervision and regulation are entirely vested in the individual states.

MR. FOSTER: Yes.

MR. STEWART: Indeed, the whole jurisdiction over



life insurance companies is in that country a matter of state control.

MR. FOSTER: Exclusive state supervision.

MR. STEWART: I would refer you to pages 6 and 7, particularly the bottom of page 7. You suggest that there should be some system which would restrict in some effective way undue borrowing by Canadian public bodies, and you say that something like the Australian council might be resorted to. Have you any information as to how that has worked?

MR. FOSTER: Personally, I have not made a study of it. I had a conversation with an insurance man from Sydney this summer in which he described in a very informal way the manner in which the plan operates there. According to him, it does operate effectively to check public borrowing in Australia.

MR. STEWART: As a matter of fact, in a democratic country such as Canada, do you think there is any effective brake upon public expenditure other than public opinion?

MR. FOSTER: We are submitting that there ought to be, and we are hoping that the Commission will recommend something new or something along the lines of the Australian plan which will operate just as effectively.

MR. STEWART: Is it your suggestion that the legislatures and the dominion parliament should respectively tie their hands in the matter of borrowing -- surrender their borrowing powers to some third organization? Some such idea must be in your mind.

MR. FOSTER: The suggestion is that they should agree to sit down together and confer upon the question of borrowing with a view to coming to some decision by





which a certain predetermined maximum shall not be exceeded.

MR. STEWART: You are merely suggesting dominion-provincial conferences.

MR. FOSTER: My understanding is that they have gone further than that in Australia. Perhaps our submission lacks that definiteness which would prove of most benefit to the Commission, but as additional information is forthcoming before the Commission and is made available to us, it may be that our own views can be crystallized and be put forward in more definite form. Our submission at the moment is that there should be some system which would restrict in an effective way undue borrowing by Canadian public bodies, and it would seem that something along the lines of what is being done in Australia would accomplish that purpose.

MR. STEWART: Not necessarily the establishment of an independent Commission.

MR. FOSTER: No.

MR. STEWART: Turning to page 10, with respect to the question of debt and the matter of jurisdiction, is it your suggestion that the dominion be given jurisdiction over the principal and the interest of debt, however arising? Is that your suggestion?

MR. FOSTER: Our submission goes that length, yes; I would say so.

MR. STEWART: All debt, however arising?

MR. FOSTER: I should think so.

MR. STEWART: That would cover practically the whole realm of contract.

MR. FOSTER: I am not sure that we have thought through the possible consequences of such a broad



submission. We did have in mind the fact that to-day matters of interest seem to be within dominion jurisdiction while matters of principal are in some of their aspects provincial.

MR. STEWART: At any rate, suggestions with respect to relieving the debtor of his debt are really as far as you want to go.

MR. FOSTER: Yes, that is probably a fair interpretation of our submission.

MR. STEWART: Coming to the subject of taxation, there is one point I should like to touch upon. Regarding annuities and dividends, what is the English practice? Can you tell me?

MR. FOSTER: I do not know, Mr. Stewart.

MR. STEWART: I understand that fairly generous treatment is accorded annuitants under the English income tax act.

MR. FOSTER: I am not at all sure, Mr. Stewart. I do know that the United States practice is along the lines of what we suggest at the bottom of page 22.

THE CHAIRMAN: We thank you, Mr. Foster, for this very interesting and important submission which your Association has made, and we are glad of your help in the matter. We trust that we can get further assistance from you on the points which we have discussed and on any others in regard to which you think you can assist us in any way.

MR. MACDONNELL: May I put on file the dominion and provincial returns which you asked for yesterday?

THE CHAIRMAN: Yes.

MR. MACDONNELL: I should like also to be allowed to make some additions to it.



THE CHAIRMAN: The insurance brief will be filed as Exhibit No.92 and the documents presented by Mr. Macdonnell will be filed as Exhibit No.93.

EXHIBIT No.92: Brief of The Canadian Life Insurance Officers Association.

EXHIBIT No.93: Dominion and provincial returns submitted by Mr. Macdonnell.

THE CHAIRMAN: Is there anything you wish to add?

MR. MACDONNELL: I do not know whether you wish me to give you now the information asked for yesterday in connection with one or two questions that were raised then. For instance, you asked for the names of ten countries which in the last twenty-five or thirty years have adopted the contributory "all-in" type of old age pensions.

THE CHAIRMAN: Will you be here after luncheon? If you can give us the names of those countries now perhaps it will be just as well to put them on the record.

MR. MACDONNELL: The countries in question are: Austria, Bulgaria, Chile, Czechoslovakia, France, Italy, Jugoslavia, Luxemburg, Portugal and Sweden.

THE CHAIRMAN: We will adjourn now until 2.30 this afternoon, and when we resume we shall meet in the railway committee room.

(The Commission took recess  
until 2.30 p.m.)

Page 2555 follows.





## AFTERNOON SESSION

The Commission resumed at 2.30 p.m.

THE CHAIRMAN: Next on our list is the All Canada Insurance Federation.

## ALL CANADA INSURANCE FEDERATION

MR. J. A. MANN, K.C., General Counsel of the All Canada Insurance Federation, was called.

THE CHAIRMAN: Mr. Mann, you appear as Counsel for the Federation?

MR. MANN: Yes, Mr. Chairman, I am General Counsel for the All Canada Insurance Federation, and this brief is submitted on behalf of the Federation, which is a body composed of a little more than 200 of the licensed companies, Stock and Mutual, carrying on and registered to carry on Fire Automobile and Casualty Insurance in Canada, both those conforming to the tariff and otherwise--Tariff and Non-Tariff companies.

Before reading the brief, Mr. Chairman, might I interject that I find upon examining it--it was only handed to me yesterday morning, and I got here only last night--while there are references in it to a great deal that Mr. Leighton Foster said this morning, while it contains much which conforms to Mr. Foster's suggestions, and it is natural, of course, that the Fire and Casualty companies would adopt a principle with regard to the tax on premiums in Canada and desire uniform application of it, I do not find that there are figures in this Brief indicating the nature of those securities to which you referred this morning, Mr. Chairman, in a question to Mr. Foster; that is, the nature of the securities which are deposited to cover the unearned premium reserves of the companies. Nor is there any reference to the very large amount, somewhere I think between four and a half and six billion dollars, of fire insurance being



carried in Canada.

It will be realized at once that it is a very difficult thing to make any synopsis or to make any calculation of the amount of liability insurance in force other than to determine it by the limit of liability in respect of the different liability policies, because, after all, automobile and casualty insurance is insurance of a liability, and it would only be possible to make a synopsis of the amount of the limitation of the liability in these policies. I shall be glad upon request of the Commission to have the Federation provide the Commission with the figures of insurance carried in Canada, Fire, Casualty and Automobile insurance, and as to the nature of the securities going to make up the unearned premium reserve deposited for the security of the policyholders in Canada.

THE CHAIRMAN: Perhaps you know whether these securities consist of Dominion or provincial securities?

MR. MANN: In connection with the Canadian and British Acts and the Foreign Insurance Companies Act, nobody knows better than you do, Mr. Chairman, the nature of the securities that are required to be held under those Acts. I can say that the securities making up their unearned premium reserve deposits are in a very large proportion Dominion and provincial securities. I am not informed in respect of the Casualty and Automobile deposits, but as they are operating under British charters I would say that probably their securities would be in Dominion bonds and in the stocks and bonds of the respective provinces.

Coming now to the brief itself, I should like to read a paragraph or two.



SUBMISSION BY  
ALL CANADA INSURANCE FEDERATION

MR. MANN: Mr. Chairman, and Members of the Commission:

"The order in council creating the Royal Commission on Dominion-Provincial relations sets out the reasons for which the Commission was created, and the scope and purposes of the investigations which it is to conduct."

I shall not read the order in council nor the paragraph which is cited in the Brief, except that part of it which refers to overlapping of services as between the Dominion and provincial authorities, which reads as follows:

"That governmental expenditures are increased by overlapping and duplication of services as between the Dominion and provincial governments in certain fields of activity. That in other respects the public interest may be adversely affected by the lack of a clear delimitation of governmental powers and responsibilities;".

Continuing at the top of page 2:

"First, let it be clearly understood that the companies accepted not only willingly but gratefully, as in their interests and the interests of the insuring public generally, the supervision of the Federal government insofar as the solvency of Dominion licensed companies is concerned and, while they have operated happily and satisfactorily under Dominion control, they do not make complaint at the assumption of power by the provinces as a result of the Privy Council decisions placing the regulation of that business





"within provincial jurisdiction. It is their belief that the Superintendents of Insurance of the various provinces and their departments are conscientiously and honestly carrying out their duties as laid down by the Insurance Acts of the respective provinces, and without question that certain powers over the business should be in the hands of provincial governments and not in the hands of the Dominion."

Might I interject there, Mr. Chairman, that with regard to the licensing of agents and with regard to the provisions covering the conditions and forms of policy, I believe it to be the view of the Federation that the provinces necessarily would control those elements. It is not the view of the Federation that there should be any attempts at interference or any recommendation for interference, I should say, in respect of property and civil rights in the respective provinces coming within the ambit of the licensing of agents.

THE CHAIRMAN: That same view was presented by the Life companies.

MR. MANN: Exactly. I am merely stating what I believe to be the view of the Federation.

THE CHAIRMAN: Would your clients agree with the view presented by the Life companies, that save as to those two matters, the jurisdiction should be in the federal government?

MR. MANN: I believe that is what the Brief will say.

THE CHAIRMAN: Thank you.

MR. MANN: I will continue with the second paragraph on page 2 of the Brief:

"As a result of the economic and social developments mentioned in the first paragraph



"of the order in council to which we have already referred, there has of necessity arisen, without direct intent and in a large degree unconsciously, the situation which is referred to in the third paragraph of the order above quoted, viz., duplication and overlapping of services and consequently of costs therefor.

It has already been pointed out that insurance companies of all classes (licensed companies whether operating as members of an association or not, Stock or Mutual) have been operating cheerfully under conditions which social and economic changes have created. They, however, deprecate increasing costs, whether arising through the overlapping of taxation or the duplicating of effort, primarily for the reason that these costs must in the final analysis be transmitted to the insuring public. It may be said that their concern in this particular, while real, is not entirely altruistic, for the reason that, as increasing costs affect purchasers of insurance, they must ultimately affect the sellers. It should be borne in mind that, entirely apart from consideration of Life Insurance, with which this Federation is not concerned, insurance is a basic necessity for the operations of both individuals and corporations dependent thereon for protection of assets and basis of credit; in the case of the employee it offers protection from loss arising through liability for the conduct of his own personal affairs and guarantees rehabilitation in case of loss or damage to his property. With these thoughts in mind we



"desire to place before this Commission certain facts illustrative of the points we have in mind.

Before setting out the particulars, may we be permitted to present the attitude of certain provincial governments.

The Attorney General of the Province of Ontario, the Honourable Gordon Conant, speaking before the Toronto Canadian Club on November 8th last (referring particularly to the activity of "regulatory" bodies set up in the United States and their harmful results, in many cases resulting in the gain of what he termed microscopic benefits) stated that the provincial government, while realizing and accepting the necessity for certain regulation of business within its jurisdiction, had no intention of interfering with business beyond the absolute minimum necessities. He added, 'It is my firm conviction that the less government interferes with business the better it is for business and the better it is for government.'"

"The government of the province of Manitoba-- I might interject, Mr. Chairman, that I have not had the opportunity of reading the brief of the Government of Manitoba:

"The government of the Province of Manitoba, in submitting its brief to your honourable Commission, after commenting on the enormous growth of the many classes of insurance and the many classes of businesses affected thereby, points out that it may be said with substantial accuracy that the business of insurance in its various aspects concerns the interests of





"every citizen in Canada as well as every business concern. After drawing attention to the provisions made in the Articles of Confederation for distinction between Dominion and provincial authority, and referring to the litigation which developed and the decision of the Judicial Committee of the Privy Council in 1932 on the question, Manitoba makes the statement:--

'From a business standpoint it would appear most advisable to have one central authority with exclusive jurisdiction in relation to insurance. At present, as a result of the Provinces of Canada having jurisdiction over the business of insurance, we have in Canada nine provincial Departments of Insurance. In addition, the Dominion Department of Insurance also functions in exercising the limited jurisdiction which it has, or believes it has. In all, there are ten jurisdictions in insurance matters in Canada.'

In a preceding paragraph we say that certain powers over the insurance business should be in the hands of provincial governments, and not in the hands of the Dominion. Here we have in mind the matter of licensing insurance agents. This power, in our opinion, should remain in the hands of the provincial governments because it is a purely local matter and because from this source sufficient revenue should be derived to pay the expenses of the various provincial Insurance Departments.



"Established jurisprudence would seem to indicate that it lies within the power of the provinces to govern the conditions of insurance contracts made within the provincial boundaries. The companies offer no objection to this, but have always urged that in the interests of economy such conditions should be uniform throughout the various provincial jurisdictions and are, and have always been, very willing to cooperate with the interested governments, with that object in view."

I think Mr. Foster said this morning--I am not sure but I think he did--and as a matter of fact, you, Mr. Chairman, know that eight provinces have adopted uniform conditions. There is, I believe, some slight variation in respect of one eastern province, but it is immaterial. Certainly five of the western provinces have uniform conditions and have had since January 31, 1925, when the Ontario Act was finally put into effect. I continue at page five of the brief:

"The unconscious increasing of costs, to which we referred in the opening, is well illustrated by taking as an example the operation of a provincial Department of Insurance between the years 1920 and 1936. In 1920 companies who were Dominion licensees made no report of their financial operations to the provinces. They did supply them with a short form giving brief particulars of their charter powers, incorporation and what lines of insurance they were permitted to write under their Dominion license. The revenue of the Department in question in the year 1920 was \$110,778. The number of permanent employees



"was eight and the number of temporary employees in the Department nine, and the total expenditure of the Department \$23,746.

In 1936 the revenue of the Department had grown to \$161,104. The total expenditure was \$66,943., the number of permanent employees had increased to twenty-eight and the number of temporary employees, in addition, was seven. It is true that by 1936 the jurisdiction of the Department had grown to the extent that it required from the various Dominion licensed companies a 'modified' annual statement of their financial operations, which in fact was a copy of the same statement those companies rendered to the Dominion government, with sufficient changes, however, to make it necessary for the companies reporting to make a separate report and compute their figures, particularly as far as reinsurance was concerned, on a different basis to that employed when making returns to the Dominion. It must not be overlooked, however, that during these seventeen years some of the companies (3 of the 11 cash mutuals) which in 1920 operated under a provincial license, had by 1936 become Dominion licensees reporting to Ottawa."

"It is interesting to note in regard to the Department referred to--"

I am not instructed as to which province that department belongs to, and I should have to ask the Federation to inform me:

"It is interesting to note in regard to the Department referred to that its total net revenue derived from insurance companies and insurance





"agents for the year 1935-36 amounted to \$161,104., whereas its total expenditure was only \$66,943. We can only assume that the balance, amounting to the substantial sum of \$94,161., found its way back to the general fund of the Province, and that this sum, being in excess of what was required to sustain the Department, is income to that Province directly derived from indirect taxation imposed upon the business.

During the same period the expenses of the Department of Insurance at Ottawa, which are assessed pro rata on the premiums written by Life, Fire and Casualty companies holding Dominion licenses were as follows:--

Year	Premiums	Expenses	Ratio
1920	\$134,579.570.	\$89,130.	.066%
1936	254,589,666.	155,143.	.060%

It will be seen from that table that with an increase of something in excess of \$120,000,000 in the premiums in Canada as between 1920 and 1936, the expense ratio came down from .066% in 1920 to .060% in 1936.

"While the above figures include Life premiums, the rate of expense on each premium dollar, whether Life, Casualty or Fire, is constant. The expenses of supervision in the case of one central authority decline as the business increases, whereas, when that supervision is divided, they increase, as the provincial example illustrates, and where nine separate supervisory bodies are maintained the expenses obviously increase in that ratio.

If our recommendation of one central authority were adopted we are confident that the ~~increased~~



"cost of operating such a central supervising body would be only a small part of the savings that would be effected by the elimination of the nine offices which, in a large measure, duplicate the work now being done by the Dominion Department."

THE CHAIRMAN: I was looking to see how the annual premiums of the companies in your Association compared with the annual premiums payable on the life insurance policies in Canada. I see from their Brief that the premiums paid in 1936 by Canadian policyholders amounted to approximately \$210,000,000, while your premiums amounted to \$254,000,000, slightly in excess of the Life insurance premiums. There was nearly \$500,000,000 paid in premiums to insurance companies.

MR. MANN: It would look as if there had been some misapprehension. According to the brief I have before me, the figures I have just quoted include Life premiums. It says, "the expenses of the Department of Insurance at Ottawa, which are assessed pro rata on the premiums written by Life, Fire and Casualty companies holding Dominion licenses were as follows." I do not know whether they mean that that \$254,000,000 includes Life premiums. I cannot believe that our premiums would be less than \$50,000,000. It is impossible to believe that Fire, Casualty and Automobile premiums in the whole Dominion would be less than \$50,000,000 a year. It would be extraordinary if they were less than that figure. I think the wording in the Brief is unhappy, and I shall have to have that checked. I think what they mean is that these are the premiums, but that they are assessed with the Life, Fire and Casualty companies. I will have an enlightening of the meaning of the phrase made for the Commission.



Now I come to page 7 of the Brief, dealing with Annual Statements:

Annual Statements.

"Under the present laws Fire and Casualty insurance companies are required to file statements with the Dominion and provincial governments, These statements give in great detail the financial operations of the companies during the preceding year.

Under the Corporations Taxation Acts eight of the nine provinces require a further statement. The Dominion requires four quarterly statements of premium income on which a Special War Revenue Tax is imposed. Eight provinces require license applications. In addition to these, there are various other statements required by governmental bodies, all of which are more carefully detailed in Exhibit 'A' attached to this brief."

Exhibit 'A', Mr. Chairman, indicates the terrific ramifications in the form of statements that have to be made in the course of a year by the insurance companies, the statements amounting to 47 in number.

THE CHAIRMAN: You think that the insurance companies must maintain a staff in excess of what the manufacturers claim they have to maintain to make out their tax returns?

MR. MANN: The insurance companies will say that the situation is such that they cannot afford to maintain the necessary staff to do that, and the result is that it throws a terrific burden on the accountancy staff of the respective companies to take care of the making out of all these statements. I continue on page 7:





"In the case of the companies which are Dominion licensees, a very comprehensive report is compiled by the Dominion Superintendent of Insurance. This volume for the year 1936 comprised 1310 pages, and gives exhaustive information of the financial operations of the companies and summarizes the results over periods of years. The statements given to provincial governments on the so-called 'modified' forms are in effect duplicate statements for each of the nine provinces of that given to the Dominion. The various Provinces issue printed reports of the companies within their jurisdiction, but it must be obvious, however, that the only report of any value is that given by the Dominion covering the operations of the companies throughout the Dominion, which report is recognized by the public as the only standard book of reference in this regard.

Consideration should be given to the cost imposed upon insurance organizations by the necessity of filing the various returns and statements which are required in connection with the business as it is now constituted and governed. The volume of premium obtainable in the Dominion is not such that it justifies or enables a company to keep a special department for the handling of returns of this character. Nevertheless, enquiry amongst Members of this Federation indicated that the internal expense of this item alone represents a large sum.

Two examples may be cited showing how the



"separate requirements of the Dominion and provincial authorities result in much work arising out of the differences in the statements having to be prepared for each.

1. Unlicensed Reinsurance.

When reporting 'unlicensed' reinsurance the Dominion regards companies as 'unlicensed' who do not hold Dominion registration. The provinces, in the statement required by them from companies of their assets and liabilities, regard companies as 'unlicensed' who are not licensed by any province in Canada. In the schedules of premiums and losses by Provinces (the premium must correspond with taxation returns) a company is regarded as licensed only in those provinces by whom they have been granted a license, and for those classes of business which they have been licensed to transact."

It is quite clear that a company licensed in the province of Quebec, inasmuch as it reinsures liability, could quite comfortably reinsure in a Dominion registered company to the extent of very large premiums; that is in the case of a company which happened to be registered at Ottawa but not licensed at Quebec, and for the purposes of the Quebec statement the principal insurer would not be able to deduct from his statement of liability or from his reserve premiums, no matter how big they might happen to be, that he had paid to the company with which the first company had reinsured because the reinsuring company was not licensed at Quebec. That creates a condition of turmoil, I suggest, as between the statement of Liabilities and Assets, comparing the provincial statement with the Dominion statement of the very same company. I continue



on page 8:

" 2. Claims

Claims are reported to the Dominion authorities on an incurred basis, whereas they are reported to the provinces on a paid and incurred basis.

These two illustrations show the impossibility of any comparison of insurance company results as published by the Dominion and provincial Departments of Insurance, and emphasize the value to the public of a report made by one central authority.

In valuing the securities of a company the Dominion authorities require market values of securities as authorized by the Department at Ottawa, whereas the Provinces require companies to report book or market values (whichever is the lower in the aggregate), except such securities as are in default on which the Ontario Department of Insurance authorize values to be used. Ontario is the only province requiring a special investment schedule.

Having in mind that the value to the public of insurance supervision lies chiefly in seeing that the company carrying the risk is at all times in a solvent position, it must be apparent that the market or liquidating value of the securities held by a company is the proper basis for making returns. It has been truthfully said:—"The value of securities held for the protection of policyholders is that for which they can be sold in the event of liquidation, a sweeping conflagration or some other catastrophe."





THE CHAIRMAN: Mr. Mann, referring to the basis of valuation which you say the Dominion authorities require, was that not introduced during the period of the depression to meet an exceptional situation?

MR. MANN: I think it was introduced in 1932, was it not, Mr. Chairman?

THE CHAIRMAN: Yes.

MR. MANN: I think it was in 1932.

THE CHAIRMAN: And that is still continuing?

MR. MANN: I believe it still continues.

THE CHAIRMAN: It was introduced, as I understood it, to meet a very exceptional situation.

MR. MANN: I believe, Mr. Chairman, that that was the argument put forward at the time it was introduced in the 1932 legislation. It was not changed in 1934 or in subsequent legislation. That is my recollection of it, and I was present, I think, at the time it was being furthered. It is my recollection that that was the reason urged for the change.

THE CHAIRMAN: Of course, the basis of valuation is much more important to the Life companies than it is to the Fire companies by reason of the fact that their investments are necessarily so much larger. They have to carry so much more to meet their capitalized liabilities.

MR. MANN: With the greatest respect, is that quite so? If the liability in the one case is \$100,000,000 and in the other case \$500,000,000, can it not be said that the \$100,000,000 should be just as carefully secured as the \$500,000,000? Because, after all, the \$500,000,000 is only five times the liability of the companies carrying the \$100,000,000 liability. So I think that would hardly apply, would it?. The premium reserve of the Fire and



Casualty companies is the total amount of the unearned premium carried for the protection of their policyholders.

THE CHAIRMAN: In relation to the amount insured, It is very much smaller.

MR. MAIN: That is true, Yes. In relation to the capitalization of the Life liabilities it is indeed very much smaller. There is no way of capitalizing the liability of a Fire or Casualty Company. It must be done on the basis of a premium reserve, and that is done, as you know, but it would not be competent to do it in respect of a Life company. I continue now on page 9:

#### Taxation

"The companies do not anticipate exemption from taxation, but they are presently subjected to a multiplicity of taxes both as to character and source.

The Dominion government impose a premium tax, again an Income Tax and again, in the form of an assessment, a tax to defray the expenses of the Insurance Department.

In addition to this the province impose a tax on the premiums, a Fire Prevention tax in some cases, license fees, and, in some cases, companies contribute to departmental expenses. The various taxes are set forth very clearly in Exhibit 'B' attached to this brief."

Exhibit 'B' is a schedule to the brief indicating the very large number of various taxes. It will be found on page 15.

I continue now at the top of page 10:

"In addition to these taxes, certain municipalities impose various taxes on insurance



"companies, some of which are set forth in more detail in Exhibit 'C', attached to this brief, and companies are continually finding it necessary to resist attempts of other municipalities to impose taxes upon them."

THE CHAIRMAN: These municipal taxes have been referred to on different occasions. Let us see what the illustrations are.

MR. MANN: They will be found on page 16.

THE CHAIRMAN: Yes. I see they are all east of the Ottawa river.

MR. MANN: Yes, they are east of the Ottawa. I do not know what the footnote refers to exactly. It says, "Approximately forty smaller municipalities levy taxes ranging from \$10.00 to \$200.00." I think perhaps the word "taxes" is an unhappy use of language. I think what is really meant is the annual license fee they charge for carrying on business within the municipality; but it is in reality a tax, of course, though it is an unhappy use of language in the phrase in which it is used.

THE CHAIRMAN: Would you mind checking up on that and letting us know?

MR. MANN: I shall be glad to do so.

THE CHAIRMAN: I think you are probably correct, that these are license fees rather than direct taxes.

MR. MANN: You will see that they refer to Fredericton, for instance, and show  $1\frac{1}{4}$  per cent of premium income, with a minimum for Fire and other insurance of \$10.00. It rather explains itself, I think.

THE CHAIRMAN: That does not sound much like a license.

MR. MANN: No. When they proceed on the basis





of percentages, it would look very much like a tax. For Woodstock, for instance, it shows three per cent of twelve and one half per cent of premium income, which again looks very much like a tax. In some cases it appears to be an annual amount fixed. I know that in a great many municipalities there is a fixed amount, which varies in different municipalities, charged for the carrying on of an insurance business. But I will check up on that as you request, Mr. Chairman, and have the information sent in. I turn back now to page 10;

"All classes of insurance companies have suffered alike from steadily increasing taxation. The following is a statement of facts as they apply to Fire and Casualty companies reporting to the Department of Insurance at Ottawa:--

In the Underwriting Results of Fire and Casualty insurance companies published by Messrs. Stone & Cox Limited, Toronto, fifth Annual Edition, 1937, it is stated:--

'The amounts paid for taxes for the past seven years and the ratio of these amounts to the premiums earned are as follows:--

<u>Year</u>	<u>Amount of Taxes</u>	<u>Ratio of Taxes to Premiums Earned</u>
1930	\$2,500,359.	2.72%
1931	2,420,571.	2.87%
1932	3,273,443.	4.24%
1933	3,028,920.	4.34%
1934	3,062,581.	4.51%
1935	3,361,024.	5.06%
1936	3,640,715.	5.54%

1937 figures are not available but will



"doubtless show a still further increase."

I would merely draw attention to the fact that the ratio of taxes to premiums earned increased from 2.72 per cent in 1930 to 5.54 per cent in 1936, or exactly doubled in those six years.

THE CHAIRMAN: Are those premium taxes?

MR. MANN: I think it must be all the taxes.

I continue now on page 11 of the Brief:

"Our submission is that the burden of taxation rests more heavily on insurance companies than on other corporations. A good illustration of this is contained on Page 126 of the 'Report of the Commission of Inquiry into Provincial and Municipal Taxation to the government of the province of Saskatchewan--1936'. In a summary analysis of revenue collected under the Corporation Taxation Act during the calendar years 1927 to 1936 the total amount collected from insurance companies is shown to be \$3,693,616., whereas during the same period the amount collected from Trust companies was \$105,350., from Loan companies \$194,945., from Land companies \$87,303., from Banks \$803,095., from Express companies \$84,265.; therefore, out of a total collection of \$5,940,798. Insurance companies contributed \$3,693,616., or in excess of 60 per cent.

Having mentioned the various sources of taxation imposed, we next come to the incidence of the taxation. A tax on Fire and casualty premiums is unfair because insurance is a highly hazardous business, subject to conflagrations and large catastrophes involving both property and life. A company may experience



"losses in any one year that will wipe out the profit not only of that year but several years, notwithstanding which, where a premium tax is imposed, it has necessarily to be paid on the results of an unprofitable business. The most equitable basis of taxation would be on the profits derived from the business, spread over a number of years.

It is hardly necessary to add that, following the imposition of taxation by the various taxing bodies referred to in the preceding paragraphs, there is the expense arising from the multiple operation of taxing agencies coincident therewith."

(Page 2580 follows)





"In closing may we point out that we have taken isolated examples where it has been possible for us to obtain dependable information; we have used figures from the so-called Jacoby Report on the results of returns under the Corporations Taxation Act, and figures compiled by the Dominion Department, and in one instance have secured figures of provincial costs. We have indicated that, outside of the report issued by the Dominion Department of Insurance, it is difficult for us to obtain accurate figures in connection with matters pertaining to the business of insurance, and it will be appreciated that it is equally difficult to obtain definite tax results, other than from sources such as the Jacoby Report. Our illustrations, therefore, drawn from widely separated sources, indicate that there is a general lack of uniformity concerning the conditions under which insurance companies are operating, and we feel that in citing a few examples rather than taking the time of the Commission to give more (even if that were possible) we have established the fact that the points raised are worthy of your consideration, and that with the power at your disposal you have the ability to secure from all sources information which will more than establish our position, and perhaps point the way to proper relief.

Insurance from its very nature is a Dominion-wide business, therefore, we urge that:-

1. One central authority should be constituted to whom all insurance companies would report their operations on a uniform basis, which authority alone should have the right to grant license



powers to insurers desiring to do business anywhere in the Dominion and which should be responsible for the maintenance of the solvency of such insurers and have power to require deposits to be maintained in Canada for the protection of Canadian policy holders; "

I interject here to say that that is subject to what I said in the earlier part, that the federation would not think that the licensing of agents and the legislation with respect to forms and conditions of policies should be determined outside the scope of the ambit, at least, of provincial jurisdiction. The brief continues:

" 2. the present system of requiring insurers to make returns to nine provincial governments and a further return to the Dominion be amended in the interests of the insuring public;

3. one return should be made to a central authority in such form that all information required for licensing, registration and taxation would be therein included, whether such information be required by the Insurance Act or the Corporation Taxation Act or any other Act, and that this return should be fyled not later than March 30th in each year, covering operations during the preceding 12 months ending December 31st;

4. all taxes should be paid to one central authority and by it allocated, if desirable, to other governments or bodies, in such manner and in such proportions as may be mutually agreed upon;

NOTE: (This procedure has already been adopted in the case of the Income Tax in some of



the provinces.) and

5. the central authority, by which all insurers would be licensed (as suggested in paragraph No. 1 of these five recommendations) should issue an annual report covering the operations of each insurer.

The whole respectfully submitted on behalf of the Federation.

W. E. BALDWIN,  
President.

I should like to add a few additional remarks, if you will permit me. I have not the foreign insurance acts before me, but it is my recollection that one of the last sections of the act contains authority for legislation vested in the federal government looking to the entering into of collaboratorial agreements with the respective provinces. I am not sure if it is in both acts, but it is certainly in the foreign act relative to the administration of the insurance business of the dominion. I merely mention that in passing, as it evidently must have been within the minds of the legislature that it was the consummation devoutly to be wished, at least, at that time.

THE CHAIRMAN: A consummation which has not so far been realized.

MR. MANN: No, it has not been realized but the large companies hope it may be realized upon the recommendation of this commission.

THE CHAIRMAN: I notice the difference between your recommendation and that of the Manitoba government is that the Manitoba government suggests the whole insurance business should fall on the federal government, just as banking does.





MR. MANN: Yes.

THE CHAIRMAN: Yours would still continue the division, but would transfer more to the federal government than the federal government now has, and would still leave with the provinces the licensing of agents and the determining of forms of insurance contracts.

MR. MANN: That is it.

THE CHAIRMAN: That involves the maintenance of separate insurance departments. Would there be much reduction in expenses under the plan you have proposed?

MR. MANN: Well, I think so, because it would merely mean that each Attorney General's Department could have some small section of the department see to the licensing of agents and in respect of legislation relating to statutory conditions and forms of policy, and that would not seem to me to involve a very large expenditure in the province, not anything in sight of \$150,000 or \$100,000 a year. It is not imaginable it could be that. A central authority controlling and directing the transmitting of copies of their respective annual statements to the respective provinces for checking purposes, would, it seems to me, result in the saving of somewhere in sight of \$1 million a year, if the figures are to be averaged up as they are in respect of one province.

MR. STEWART: A copy of Mr. Mann's brief will be filed as Exhibit 94.

EXHIBIT NO. 94: Brief submitted by  
All Canada Insurance  
Federation.

MR. STEWART: I do not think I have any questions to ask this witness.

THE CHAIRMAN: Mr. Mann, they are letting you off easily. You have dealt with a different problem from that



doubt with by the other insurance companies.

MR. MANN: Yes, Mr. Chairman. I may say that this brief was handed to me 10 minutes before train time yesterday. I have not been instructed along that line. The president, vice-president and secretary are all absent. Probably if they had been here one of them might have read the brief himself.

COMMISSIONER ANGUS: Would this proposal fit in with the possibility of a special kind of insurance being carried on in one province and not in another; for instance, employers' liability may be insuring against something in one province and not in another, or there may be compulsory automobile insurance in one province and not elsewhere.

MR. MANN: Personally, I have considered that and I think they fit perfectly and I can see no reason why they should not fit into these recommendations.

COMMISSIONER ANGUS: What I had in mind was the possibility of a province that had some special type of insurance that did not exist in the other provinces wishing some special return or some special information in connection with it.

MR. MANN: Yes; I can apprehend while there would not be Workmen's Compensation in Quebec there might be in Manitoba, written under a dominion license company, and that Manitoba might want some special return. I would think, as a matter of fact, a question of that kind would be a matter for internal consideration or internal management or internal correspondence between the central superintendent and the Attorney General's Department of the province. I would not think it need by the subject of special legislation.

THE CHAIRMAN: Thank you, Mr. Mann.

The next in order is the Dominion Mortgage and



Investments Association. I understand the brief will be presented by Mr. Leonard. All right, Mr. Leonard.

T. D'ARCY LEONARD, General Counsel for the Dominion Mortgage and Investments Association was called and examined.

MR. LEONARD: Mr. Chairman, I have the assistance of Mr. Sheard of the National Trust Company and Mr. Dillon of the Royal Trust Company in case there are any matters of practical information that I am not possessed of. I have a written brief, which I have filed with the secretary, and if it pleases the commission I shall proceed to follow the written brief.

THE CHAIRMAN: That is the procedure that has been followed in these hearings so far. In previous hearings counsel have discussed the main points of their briefs. You may do just as you prefer.

MR. LEONARD:

#### INTRODUCTION

For the purpose of assisting the Royal Commission in its study of taxation in Canada and the division of the burden of government, The Dominion Mortgage and Investments Association desires to submit all facts relevant to the Commission's inquiry pertaining to the business of loan companies and trust companies within the knowledge of this Association.

The Dominion Mortgage and Investments Association is an organization composed of loan companies, trust companies, and life insurance companies, to discuss and deal with matters of common interest to those groups of companies in regard to their investments. While it does not include all such companies, its membership





represents the major portion of the business in Canada.

In addition to matters relating to taxation and the division of government responsibilities, there are matters concerning the investments of our member companies as to which we beg leave to submit further facts at a later date to the Commission. In this part of the brief it is intended to deal only with taxation and overlapping of governmental jurisdictions."

I may add, Mr. Chairman, in dealing with taxation and overlapping of governmental jurisdiction there may be matters which are common to all citizens of Canada, including ourselves. We thought the most helpful thing we could do was to deal with it specifically with relation to our business, so that if there acts concerning duplication of government or expenses in connection with taxation relative to our companies we would submit them to you, and with similar information from other organizations a proper picture could be built up. The brief continues:

"As the life insurance business warrants special consideration, the Canadian Life Insurance Officers Association is submitting to the Commission a brief dealing with the place of life insurance in the social and economic life of Canada, and therefore this brief is confined to the business of loan and trust companies.

The first part of this brief will deal with Trust Companies.

#### PART I

#### TRUST COMPANIES

#### JURISDICTION

The business of corporate trusteeship in Canada is a post-Confederation development. While



some charters were granted as early as 1868, it was not until 1882 that a trust company actually commenced business. Since that time both federal and provincial jurisdictions have created such companies and according to the latest information available there are now 13 Dominion and 57 provincially incorporated trust companies.

As a result, there may be doing business in a province, trust companies incorporated by that province, or by another province, or by the Dominion. While this situation applies to trading companies also, the legislation respecting trust companies is of a special character, dealing with them on the basis that they are institutions which in their capacity as executors and trust trustees perform functions that have a public interest. This special legislation relates not

only to the incorporation of trust companies but to the conduct and management of their affairs.

A dominion incorporated company is subject to an intensive supervision and inspection by the Superintendent of Insurance for the Dominion, for the purpose of seeing that its affairs are conducted in accordance with the provisions of the Dominion Trust Companies Act, R.S.C. 1927, Cap. 29, and that its solvency is maintained for the protection of the public doing business with it. The provinces of New Brunswick, Nova Scotia and Saskatchewan accept the supervision of the Dominion Superintendent of Insurance as adequate protection to them and do not require any local supervision in such instances."

THE CHAIRMAN: You are speaking of trust companies?

MR. LEONARD: Yes, my Lord.



THE CHAIRMAN: The Dominion Department of Insurance inspects dominion trust companies.

MR. LEONARD: Yes, my Lord. I should add there that the provinces of New Brunswick and Nova Scotia also have the dominion department inspect the provincially incorporated companies. Saskatchewan accepts the dominion inspection of dominion companies; New Brunswick and Nova Scotia also. But in addition these two provinces use the dominion department of insurance for the purpose of inspecting provincially incorporated companies. The brief continues:

"However, the other provinces of Canada, notably Alberta, British Columbia, Manitoba, Ontario and Quebec, reserve the right to inspect the affairs of all trust companies operating within their limits and this right is fully exercised by the Provinces of British Columbia and Ontario. It has already been pointed out that the great majority of Canadian trust companies have provincial charters and it may therefore be said that practically all provinces have taken the power of supervising the affairs of a trust company wherever it may have an office.

To all provinces in which a company does business and to the Dominion, in the case of a Dominion incorporated company, an annual return is by law required to be made. In the case of the Dominion and the provinces of Ontario and Quebec, the return is detailed and voluminous. None of the returns are uniform and all call for a lengthy report, sometimes running well over forty pages and embracing a variety of schedules."





I have some further information which I think I should give at this stage. I took the case of an average trust company -- I know the schedules would be long -- and found that the actual forms themselves run about 40 pages. I have information from this company, which is an average trust company to the effect that their report to Ontario consists of 149 pages and to the dominion 140 pages. These reports are in quadruplicate. The clerical time involved in the preparation of the two reports is about 725 hours, approximately the same for each government. I continue with the brief:

"The extent to which trust companies are inspected by the Dominion and the various provinces varies considerably. The closest inspection usually comes from the province of incorporation or from the Dominion in the case of a Dominion incorporated company, and, in addition, from the province of Ontario in the case of all companies doing business there."

I think that applies to British Columbia also.

"This overlapping of forms and returns and rights of inspection constitutes a real problem for the companies concerned, involving as it does time and labour for preparing such returns and making books available to inspectors, as well as much correspondence elaborating upon the returns made. There is a real need for uniformity in this matter.

An illustration of the present situation is that the Ontario Act requires its Registrar to inspect annually the Head Office of a company in Halifax which is also inspected by the Dominion Superintendent of Insurance. Inherent in the



existing set-up is the possibility of greater multiplication of inspection so that if all provinces developed the Ontario system we would have such inspection departments criss-crossing one another and repeating the same work time and time again.

Moreover, in some provinces extra-provincial trust companies are required to make substantial deposits with the government which would appear to be an unnecessary addition to inspection.

From the foregoing facts, it would seem logical that in the long run the most desirable and economical system of inspection would be to have only one jurisdiction, namely the Dominion, inspecting all companies whether incorporated by the Dominion or a province."

THE CHAIRMAN: The dominion department will inspect purely provincial trust companies? You say the dominion does inspect the trust companies of Nova Scotia?

MR. LEONARD: Nova Scotia and New Brunswick, my Lord.

THE CHAIRMAN: Is there something in the Dominion Trust Companies Act authorizing the superintendent to do it?

MR. LEONARD: It is just the other way round. I think the legislation in Nova Scotia and New Brunswick empowers the Minister to name a person to inspect, and he has named the Superintendent of Insurance. The Superintendent of Insurance -- I do not know whether the dominion act specifically deals with it or not -- has accepted that responsibility, and charges the expenses back against the companies.

THE CHAIRMAN: Does he report on them in his dominion



report?

MR. LEONARD: He reports on them in his Dominion report, and he reports by reason of the Nova Scotia and the New Brunswick legislation.

THE CHAIRMAN: Is that report a separate report on trust companies, or is it included in the insurance report?

MR. LEONARD: It is a report on loan and trust companies.

THE CHAIRMAN: A report on loan and trust companies?

MR. LEONARD: Yes. At least it is in one volume.

THE CHAIRMAN: You think there is no reason why that principle adopted in Nova Scotia and New Brunswick should not be extended throughout Canada?

MR. LEONARD: The submission is this: At the moment you would not save any expense outside of the elimination of duplication of inspections in Ontario companies to have the dominion take over the inspection. At the present time there is actually no duplication of inspection there, and it is just a question of how far there is added expense that could be eliminated. That is something that investigation might show. They have the staff there at the present time. There could be a saving in the long run if you had a sufficient development of the principle. The one department would unquestionably be a saving. I should like to say these facts are put forward, not so much as a complaint, as to show that it seems to us to be a situation which does call for some rectification. The brief continues:

"It is questionable whether such a step would mean an immediate saving of expense due to the necessity of an expansion of the Dominion department to replace provincial staffs, but, in the meantime, the following recommendations are made





for the purpose of eliminating existing and preventing further duplications:

- (a) that Dominion incorporated companies should be subject to Dominion inspection and supervision only;
- (b) that where provincially incorporated companies are now subject to an inspection by the province of incorporation, of a type similar to that of the Dominion, such inspection be accepted in all other provinces; "

THE CHAIRMAN: That is a provision, Mr. Leonard, Leonard, that would depend upon provincial legislation in each province.

MR. LEONARD: Yes, my Lord.

THE CHAIRMAN: That being so it may be a little beyond our scope to deal with it.

MR. LEONARD: There would have to be some agreement with the provinces which would enable the other suggestions to be put into effect in the interests of economy -- I continue:

- "(c) That where no such provincial type of inspection now exists, the precedent established by New Brunswick and Nova Scotia be followed, of using Dominion inspection;
- (d) that while a detailed return could be made to the inspecting jurisdiction, a uniform brief information return should suffice for other jurisdictions in which the company does business."

The main return is the one that is tied in with inspection, and there should only be one needed, if there is only one inspection. I shall now proceed to deal



with taxation.

### TAXATION

" In dealing with the subject of taxation by the Dominion and provinces it is desirable to state at the outset that the trust companies recognize that they, in common with other businesses in Canada, must bear their full and fair share of taxation. They believe that their figures of present taxation will indicate that such is now the case. The information herein set out as to taxation of trust companies is to assist the Commission in arriving at any recommendations that will eliminate waste in our national economy due to duplication of tax machinery and that will bring about coordination among taxing jurisdictions. Lack of coordination among the various taxing bodies tends to uncertainty, retarding of business, and, by the operation of the law of diminishing returns, may eventually result in a decrease of taxes through depletion of their source.

In Schedule "A" to this brief are set out the various taxes to which trust companies are subject."

THE CHAIRMAN: Let us look at the schedule. On what page is it?

MR. LEONARD: Page 23. It is a schedule of provincial taxes. British Columbia has a tax on loan and trust companies of 2 1/4 per cent on gross income or on the general graduated scale of income tax whichever is greater. Alberta taxes loan companies 2 per cent on gross income from investments in Alberta; minimum tax of \$200 when paid up capital is \$100,000 or more;



lower minima for lower paid up capital. Trust companies are taxed 1 1/2 per cent on gross income from investments in Alberta. Minimum tax of \$100 where paid-up capital does not exceed \$100,000; minimum tax of \$175 where paid up capital exceeds \$100,000. The income tax Act in Alberta applies where the tax would exceed the tax under the Corporations Taxation Act.

THE CHAIRMAN: They do not seem to have treated you in the banking class in fixing the taxes in Alberta.

MR. LEONARD: No; they may want to for some purposes, but they have not done it in this case. In Saskatchewan the loan companies tax is on a per dollar of investment; trust companies' on gross revenue.

THE CHAIRMAN: Without going through them in detail, is there any measure of uniformity in the amount and character of the taxes levied in the different provinces?

MR. LEONARD: I think I have summed that up in that paragraph.

THE CHAIRMAN: You might read that.

MR. LEONARD: Analyzing this schedule to ascertain duplications, we find that the Dominion taxes a company on its net income under the general Income War Tax Act, R.S.C. 1937, Cap. 97, and that every province except New Brunswick has a tax on either gross or net income in the province. Ontario, Quebec and Nova Scotia all impose taxes on the paid-up capital stock of the company, and while in some cases allowances are made so that the whole capital stock is not taxed, yet there is duplication in this tax. Then again, as a company's share capital is invested in securities in the various provinces, there is further duplication either on the investments representing the share capital or on the revenue from those invest-





ments."

There is not a uniformity in the base.

THE CHAIRMAN: It must have been oversight in New Brunswick.

MR. LEONARD: Yes.

COMMISSIONER ANGUS: Is one reason for that, it is very difficult to segregate the net income province by province.

MR. LEONARD: Well, I do not think it is any more difficult than to segregate gross income, and they have gross income. From a company standpoint it is quite a practical thing to establish a base for separating net income, which is a fair base. When we come to our recommendations we suggest a supplementary return to the government might make that breakdown and it could be made quite fairly with proper apportionments of costs and income.

COMMISSIONER ANGUS: It would not be possible to transfer net income from one province to another, as it were, by transferring investments so as to incur a lower rate of tax?

MR. LEONARD: No. Insofar as trust companies are concerned, where their main income is from service fees as administrators, there is quite a definite marked base that can be used, and if there happens to be a movement of funds between provinces or between head offices it is an easy matter to charge one branch with its share of the cost of that money and credit another branch.

COMMISSIONER ANGUS: The share would be apportioned?

MR. LEONARD: On a basis of average cost throughout the whole company. It is done as a matter of practice by most companies in order to determine whether or not they are making money, I believe. The brief continues:



report?

MR. LEONARD: He reports on them in his Dominion report, and he reports by reason of the Nova Scotia and the New Brunswick legislation.

THE CHAIRMAN: Is that report a separate report on trust companies, or is it included in the insurance report?

MR. LEONARD: It is a report on loan and trust companies.

THE CHAIRMAN: A report on loan and trust companies?

MR. LEONARD: Yes. At least it is in one volume.

THE CHAIRMAN: You think there is no reason why that principle adopted in Nova Scotia and New Brunswick should not be extended throughout Canada?

MR. LEONARD: The submission is this: At the moment you would not save any expense outside of the elimination of duplication of inspections in Ontario companies to have the dominion take over the inspection. At the present time there is actually no duplication of inspection there, and it is just a question of how far there is added expense that could be eliminated. That is something that investigation might show. They have the staff there at the present time. There could be a saving in the long run if you had a sufficient development of the principle. The one department would unquestionably be a saving. I should like to say these facts are put forward, not so much as a complaint, as to show that it seems to us to be a situation which does call for some rectification. The brief continues:

"It is questionable whether such a step would mean

an immediate saving of expense due to the necessity of an expansion of the Dominion department to replace provincial staffs, but, in the meantime, the following recommendations are made



for the purpose of eliminating existing and preventing further duplications:

- (a) that Dominion incorporated companies should be subject to Dominion inspection and supervision only;
- (b) that where provincially incorporated companies are now subject to an inspection by the province of incorporation, of a type similar to that of the Dominion, such inspection be accepted in all other provinces; "

THE CHAIRMAN: That is a provision, Mr. Leonard, Leonard, that would depend upon provincial legislation in each province.

MR. LEONARD: Yes, my Lord.

THE CHAIRMAN: That being so it may be a little beyond our scope to deal with it.

MR. LEONARD: There would have to be some agreement with the provinces which would enable the other suggestions to be put into effect in the interests of economy -- I continue:

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MR. LEONARD: On a basis of average cost throughout the whole company. It is done as a matter of practice by most companies in order to determine whether or not they are making money, I believe. The brief continues:





"The main earning power of a trust company is in the fees it receives for services rendered in the administration of estates, trusts and agencies. It performs those services in competition with individuals, as any person may act as an executor, trustee, or agent. It has no special privileges in those capacities. As the business of trusteeship in the hands of private individuals is not taxed by provinces, except insofar as it may be reflected in a provincial income tax applicable to the income of that individual, it would be logical to assume that the development of trust company business on a remunerative basis would increase provincial taxes. On the other hand, too heavy or indiscriminate taxation retards that development.

In the Reports of the Ontario Registrar of Loan and Trust Corporations and of the Superintendent of Insurance for Canada there is set out certain information as to the taxes paid by trust companies. These reports for the year ending December 31st., 1936, cover 35 trust companies, including all the larger ones.

According to these reports the total Dominion, provincial and municipal taxes (other than taxes on real estate) and license fees paid by the companies in 1936 was \$698,660."

I may interpolate here that municipal taxes on real estate are eliminated because those are taxes applicable generally to all citizens. These are taxes which refer particularly to the business of trust companies. I continue with the brief:

"These taxes were based on the business of the companies in the year ending December 31st., 1935, and for that year the total aggregate net profits



(before taxes) of these 35 companies were \$2,953,660. In other words, these taxes amount to 23.7% of such net profits.

If one were to take the aggregate figures for these companies and divide by 35 in order to illustrate the position of an average trust company, one finds that this average company made net profits (before taxes) in 1935 of \$81,151 and paid taxes in 1936 on its 1935 business of \$18,989. This average company would have a capital of \$800,000, with reserve and contingency fund of \$485,000, so that its total of shareholders funds would be \$1,285,000. Its net profits (after taxes) available to its shareholders of \$62,162 would amount to 4.8% on their equity. It might be noted also that as these net profits are paid to the shareholders in the form of dividends, they are again subject to taxation as income in the hands of the shareholders."

THE CHAIRMAN: When you say 4.8% on your equity, you mean on the stock held by them in the company?

MR. LEONARD: I mean on the \$1,285,000; that is to say, the liability to the shareholders over and above the liability to the public, the capital and reserves of the company.

THE CHAIRMAN: Yes, 4.8% on the capital.

MR. LEONARD: What constitutes at the moment a shareholders' investment in the company? Continuing with the brief:

"It can readily be seen from the foregoing figures that the taxes paid by these companies bear a high percentage to the net profits and that the rate of return on his investment to the share-



holder is relatively small."

Possibly I should qualify that wording. We do not know, of course, what the shareholder paid. He may have paid more or less, but at the moment that is the shareholder's investment in the assets of the company. I continue with the brief:

, "The figures from the 1936 Reports were given as being the latest available, but they are typical of the trend of taxation on trust companies.

It should be pointed out once again that these taxes do not include municipal taxes on real estate, such as a tax on a company's office building.

As previously stated, the companies recognize the necessity of paying their fair share of the taxation required for government in Canada. The above figures emphasize that they are doing so and point to the desirability of eliminating any unnecessary expense in the performance of government services, and in the collection of taxes, and indicate the danger in the situation wherein three

taxing authorities, taxing on different bases, and having regard almost exclusively to their own fiscal problems, pyramid taxes until they become too burdensome.

In relation to the taxes directly paid by trust companies, there should be considered the expense to trust companies in collecting taxes for governments on the transactions that the companies are handling on behalf of many thousands of individuals. The nature of a trust company business in acting in the capacity of an executor, trustee, administrator, a stock transfer or other agent, makes it virtually a ~~collection~~ agent of income taxes, succession duties, and ~~stock~~





transfer taxes for governments. These taxes are not chargeable directly against trust companies but the expense to companies in connection with them is heavy and constitutes, in effect, an indirect tax.

In the case of one company (and that not the largest), it has estimated that the staff required to handle taxation matters involves it in an annual outlay of over \$50,000. All this money is spent without any relation to any tax chargeable against the company itself. Furthermore, a considerable portion of it cannot be recovered from clients, because it is for work required of trust companies by governments in connection with estates or trusts where the scale of fees was established prior to the time when taxing statutes imposed these duties on executors and trustees."

THE CHAIRMAN: You mean that it cost this company to which you refer over \$50,000 per year to attend to the taxation returns and taxation payments in connection with estates which the company is administering or looking after?

MR. LEONARD: Estates and clients. Most trust companies now have an income tax department alone. For example, each of these do income tax matters. Then there are in the Estates Department what is known as "a Succession Duty Department."

THE CHAIRMAN: Of course, if it were not for estates or agencies --- if they were doing that for clients as distinct from clients and estates and agents I suppose they would be paid for it?

MR. LEONARD: That is where some could be recovered. In the case of an ordinary estate or trust where your remuneration is fixed as, for example, in Ontario, in



accordance with the scale established by legal decisions and court precedents, additional work has not really been compensated for by remuneration. I continue with the brief:

"Without going into full detail of the work done by trust companies for taxing bodies some examples can be given. Later in this brief, particular mention will be made of Succession Duties and it will be apparent to the Commission that the task of settling and paying duties is of considerable magnitude, involving time and expense in ascertaining the liability for duty not only on the basis of the estate as it comes into the trust company's hands, at death, but also on gifts or other transactions in his lifetime. Duplication of taxes and multiplicity of taxing bodies add greatly to that expense.

In connection with Dominion Income Tax collections, the work of a trust company is even greater. In the Estates Department of one company, at one single office, 75,000 Forms 600 and 601 are required to be prepared annually by the staff to furnish the Income Tax Department with information. In addition, information returns must be furnished non-resident clients and beneficiaries where tax is withheld in Canada. The same company completes and files annually 1700 T-3 Returns for the purpose of enabling the Income Tax Department to assess beneficiaries."

THE CHAIRMAN: What is your suggestion, or have you a suggestion?

MR. LEONARD: I should probably say there we are not complaining about anything we have to do where



it is necessary for taxation purposes. There is bound to be a certain amount of expense. We only mention the expense because if on top of that there is any duplication or waste that could be eliminated so that we can get down to the bare essentials that are necessary. For example, in making out 1700 T-3 returns there is not duplication there. Similarly with regard to Forms 600 and 601; although there is a question as to whether that tax does not carry with it too much expense in relationship to the amount collected. If it is necessary, it has to be done.

We come later to a suggestion and say that in view of all that, if there is any way we can suggest to eliminate the duplication or expense that seems to be waste then we think it should be done. I continue with the brief.

"In the Transfer Department of a trust company, constant checking is required over lists of shareholders and transfers in order to comply with the requirements of such taxing legislation as Succession Duties, 5% Tax, and Stock Transfer taxes.

In the last twenty years, as taxation in Canada increased in volume it has been accompanied not only by the added government expense in collecting taxes, but also by an ever-growing expense to the public in paying them. The maintenance of records, the scrutiny of transactions, the necessity for legal advice and often litigation because of uncertainty or duplication, the completion of returns, payment of taxes, and the auditing of them, all these involve expense which must be added to the actual taxes and to government expenses in order to know the full cost of govern-





ment. It is particularly striking in the case of trust companies where their expenses in collecting taxes for the governments amount to a figure that in itself would be a heavy tax. There is a need for simplification in administering the collection of taxes and for the elimination of elaborate processes.

Probably the form of tax by a province on trust companies that in the long run would be the most equitable is a tax on net income from business transacted in the province. In such event, the tax could be collected by the Dominion in the same manner as it now collects income tax from individuals for the Province of Ontario. A supplementary return to the Dominion filed with the Dominion Income Tax return would give the break-down of net income by provinces so that the respective taxes could be allocated. While this suggestion might not carry with it any reduction in the total taxes paid, yet it would eliminate such duplication as now exists and would also provide a saving in the governmental expense of collection."

I think perhaps I should say, Mr. Chairman, this as to taxation: We recognize there should probably be a minimum license fee; irrespective of whether any company has any net income it should be taxable. But when we come to the taxation fee, in the long run we believe a tax on net income would be in the interest of the provinces as well as saving expenses and it would be a more equitable basis for taxation. I continue with the brief:

(Page 2610 follows)



" Furthermore, if both dominion and provincial taxation were to be on a net income basis, provision should be made for the allowance of one tax as an expense before calculating the other tax, so as to avoid duplication."

That finishes the submission so far as trust companies directly are concerned. I come now to page 10:

" SUCCESSION DUTIES.

Trust Companies in their capacity as executors and administrators, as well as private-executors and administrators, act virtually as collection agents of succession-duties for the various provincial governments, and the same is true to some extent in acting as stock transfer agents. In such capacities they have received advice as to the legal situation in a great many cases, and have had much experience in the practical application of the various Acts. Trust companies, therefore, believe that they are peculiarly qualified to submit to the Commission a summary of the present legal position with respect to such duties, and also the practical results thereof on the administration of estates and the position of beneficiaries.

(a) Legal Position.

Succession duties are levied by each province by virtue of its authority to raise revenue by means of 'direct taxation within the province.'

In several cases particular statutes have been attacked as attempting to impose indirect taxation, and in certain instances, of which probably the best known is the case of *Cotton v. The King* (1914)



"A.C.176, the statute in question has been held to be ultra vires on this ground. More often, however, taxability has been contested on the ground that when applied to the particular facts involved the tax was not 'within the province.' Such cases have usually involved the taxability of intangible personal property in the nature of choses in action, and for a time the legal position was obscured by differences of opinion about the application of the maxim "*mobilia sequuntur personam*."

Since the decisions of the board in the cases of *Alleyn-Sharple v. Barthe* (1922) 1 A.C.215, and *Kerr v. Provincial Treasurer of Alberta* (1933) A.C.710, it may now be regarded as settled that a province can only impose a tax in the nature of succession duty, probate duty or inheritance tax when either (a) the property sought to be taxed is situated within the province, or (b) when the property is not situated within the province but a 'transmission' of the property takes place within the province.

The right to tax on this ground is exercisable in respect of personal property only and in order for the 'transmission' to be within the province, it would appear that the property must pass from a decedent domiciled within the province to a beneficiary domiciled or ordinarily resident therein. As was said by Lord Thankerton in the *Kerr* case:

'In their Lordships' opinion, the principle to be derived from the decision of this board is that the province, on the death of a person domiciled within the province, is not entitled to impose taxation in respect of personal property locally





"situate outside the province, but that it is entitled to impose taxation on persons domiciled or resident within the province in respect of the transmission to them under the provincial law of personal property locally situate outside the province.'

No doubt it would be *intra vires* for a province to impose a tax upon a resident beneficiary personally in respect of inheritance received from sources outside the province, but the provinces do not see fit to attempt such taxation in express terms. As stated by one writer:

' It is true that the *prima facie* meaning of some enacting clauses is wide enough to include a succession where the decedent was not domiciled but from a practical point of view the enforcement of such taxation would be impossible, inasmuch as there is no need for any person to disclose to the provincial authority the fact of the succession. English judges early recognized this difficulty and construed the word 'succession' to mean succession to the estate of a domiciled decedent only: *Wallace v. A.G.*, L.R. 1, Ch.1; *R.V. Levitt* (1912) A.C. 220. *Lambe v. Manuel* (1903) A.C. 68.'

Subject to certain unimportant exceptions. I think that phrase should probably not be in there; I do not think there are any exceptions my Lord.

"It may be said that all the provinces impose succession duties on all property situated within the province and also on all transmissions within the province of personal property situated outside the province. It is plain, therefore, that in



"attempting to determine the taxability of property comprised in an estate, it is first necessary to decide the situs in law of such property and then, in addition, to determine within what province, if any, the transmission of the property is taking place.

Since the decision in the *King v. National Trust Company* (1933) 4 D.L.R. 465, it appears to be settled 'that a provincial legislature is not competent to prescribe the conditions fixing the situs of intangible property for the purpose of defining the subjects in respect of which its powers of taxation under the British North America Act, 1867, s. 92 (2), may be put into effect,' and the situs must, in each case, be determined by reference to the general principles of the common law. Nevertheless, the determination of situs may be a matter of considerable difficulty on particular facts, and these difficulties have been productive of much litigation. The question of the situs of ~~simple contract~~ debts, deposits in a branch bank, mortgages on real estate, negotiable instruments, partnership lands, bonds and shares of incorporated companies, have all been the subject of lawsuits, many of which have been carried to the Supreme Court of Canada or to the Privy Council. The question of the situs of the shares of incorporated companies is further complicated by the possibility that different rules may be applicable to the shares of dominion as contrasted with those of provincial companies, and because situs may be affected in specific cases by the provisions of by-laws of the individual companies concerned.



" While gradually, as the result of litigation, the legal situation of different kinds of property under various circumstances is becoming clarified, there seems no reason to expect a diminution in the flood of litigation that has resulted from the attempt to apply complicated and often technical rules to a great variety of different sets of circumstances."

THE CHAIRMAN: What were the facts in the King v. National Trust Company? I have forgotten.

MR. LEONARD: That was in connection with the Sifton estate. Sir Clifford Sifton, who died domiciled in Ontario, held certain Canadian National Railway bonds registered in Montreal.

THE CHAIRMAN: Now that you mention it I recall the case.

MR. LEONARD: To proceed:

" Practical Difficulties.

The fact that personal property comprised in the estate of a deceased person is normally subject to succession duties both in the province in which such property has its legal situs and also in the province in which the 'transmission' of such property takes place, often subjects the beneficiaries of the estate to double taxation and raises administrative problems because of the legal difficulties already referred to.

The succession duties Acts normally impose a responsibility on executors and administrators to see that the duties are paid, and also contain a prohibition designed to prevent companies from permitting transfers of their shares or registered securities when such shares or securities have become





"subject to tax. This prohibition is enforced by the imposition of penalties on any company permitting such transfer without the consent of the provinces claiming the right to tax such shares or securities. Naturally, companies are unwilling to assume the risk of incurring such penalties in doubtful cases, and therefore usually insist upon receiving the consent of the province before permitting the transfer in any case where there is any possibility of the property being taxable. This means that not merely must the executors and beneficiaries themselves determine what taxes are properly payable, but in addition, before obtaining control of the asset concerned, they must be in a position to prevail upon the company in question to permit the necessary transfers. In practice this very often means that two legal opinions must be obtained, one by the estate and the other by the company whose shares or other securities may be subject to tax.

So commonly do these questions arise that they have been described by a recent writer as

'one of the fields of law most frequently encountered in ordinary practice of the present day. '

In the case of shares and registered securities, it not infrequently happens that even when the estate has been advised that certain assets of this kind are properly taxable only in the province where the deceased had his domicile, the companies concerned refuse to permit such shares to be transferred without payment to some other province.

The estate must then either pay duties to such



"other province or bring action to have it declared that such duties are not properly exigible. As the amount involved is often not very large, estates habitually pay such duties rather than assume the cost of such litigation and it is customarily only in large estates where substantial amounts of money are involved that such questions get before the courts. Thus beneficiaries find themselves forced to make payments that they believe are not only unjust but also not legally enforceable.

When property comprised in an estate is subject to duty in two provinces, the result is to increase the duty by reason of a circumstance that may well be regarded as fortuitous, namely, that the legal situs of the property is in a province other than that in which the 'transmission' takes place. Very wealthy men who are usually in receipt of legal advice on such matters often avoid this duplication by the formation of a holding company located in their province of domicile. Cases of duplication, therefore, arise most commonly in the estate of moderate size where, if the property subjected to double taxation constitutes any substantial proportion of the estate, serious hardship may result.

In an estate administered by one of the members of this association, the total taxable value of the estate was approximately \$82,000, which passed under the terms of the will to brothers and sisters and nephews and nieces. Transmission of the estate took place in one province but practically all the assets were situated in another. The total



"tax payable to both provinces was approximately \$18,200, of which approximately half was payable to each one. This example is admittedly an extreme one, but many others could be given where the additional burden imposed on the beneficiaries was very substantial having regard to the amount of property involved.

The fact that in respect of certain estates duties have to be determined by two different jurisdictions adds substantially to the cost of administration, and the delays incidental to the determination of such duties may involve the estate in serious loss. In one instance where the securities in question were difficult to value, the delays incidental to negotiations with two different Succession Duties Departments and the impossibility of disposing of the securities until such negotiations had been concluded and releases obtained, resulted, in a declining market, in the estate finding itself ultimately with assets worth less than the total succession duties payable to the two provinces.

The multiplicity of taxing jurisdictions, the complexity of the legal problems created, and the practical difficulties incidental to duplicate taxation should be recognized as waste in that part of our national economy concerned with the transmission of property by inheritance. Duplication of taxation on certain types of property under certain circumstances constitutes an artificial barrier against the free flow of capital for investment between provinces.

The present position with regard to duplication of succession duties as between the provinces of Canada and foreign countries has not been described





" but is broadly the same as that which exists between the provinces themselves. Such duplication is also undesirable as tending to impede the free flow of investment capital between Canada and such countries. Informed investors, realizing the danger of such taxation, are naturally inclined to avoid it by limiting their investments to their places of domicile. Because of the legal and practical difficulties involved, the total burden of expense borne by the beneficiaries of the estates is actually much greater than the additional revenue collected by the provinces by reason of the existence of such duplication.

(c) Double Taxation.

It is obvious that so long as succession duties remain a provincial levy some measure of duplication of taxing machinery and certain difficulties of jurisdiction are likely to be inevitable, but nevertheless the more serious anomalies could probably be removed by an adequate system of reciprocal exemptions from such duties where double taxation would otherwise arise.

We understand that in the United States the trend of jurisprudence has been to limit the taxation of personal property to the jurisdiction in which the deceased was domiciled at the time of death.

In Canada, however, the fact that the deceased had his domicile within the province does not confer taxing authority in respect of property outside the province unless the beneficiaries are also resident in the province of the deceased's domicile, and therefore reciprocity based on the theory that the province of domicile of the deceased should be



"the primary taxing jurisdiction would have to be qualified if certain property properly taxable was not to escape taxation altogether. This difficulty, however, would appear to be rather one of detail than of substance, and although under a system of reciprocal exemptions many legal problems and their incidental expense would remain, the burden placed upon beneficiaries could be greatly lessened. Practical difficulties could be further minimized if there was uniformity in such matters as the basis of valuation of assets, definitions and general principles so that the settlement of such questions with respect to one Act would serve as a guide in other provinces.

Representations to the various provincial authorities have been made from time to time, but there has been little or no progress towards the establishment of reciprocal arrangements. Actually the trend has been the other way, and where reciprocity formerly existed between provinces, it has in certain instances been eliminated.

Thus there were formerly reciprocal arrangements existing between Ontario and several other provinces which are no longer in effect. Reciprocity does, however, exist between certain provinces and the United Kingdom.

Apart from the general difficulty of obtaining agreements between provinces that would have the effect of reducing provincial revenue, one specific obstacle in the path of such reciprocal arrangements has probably been differences of opinion about which taxing principle, 'situs' or 'transmission' should be made to give way. It may be assumed



"that some provinces would be likely to favour the principle of 'situs' as determining the right to tax, whereas others would prefer to see the tax levied exclusively by the province in which the deceased had his domicile. In the result all provinces insist upon their legal right to tax according to both principles, and there is no reciprocity at all.

We are aware that the suggestion has been ..... made to the Commission by certain of the provinces that succession duties should be made exclusively a federal matter. The suggestion has, however, been tied in with other considerations which are completely outside our field. While, therefore, such a change would, of course, remove the difficulties described as arising between provinces, we believe these difficulties could be minimized if a system of reciprocal exemptions between provinces could be brought into effect, accompanied by a greater measure of uniformity in the various Acts."

THE CHAIRMAN: I judge from what you have set out here, based upon past experience, that the prospect of eliminating this duplication of taxation is not very hopeful.

MR. LEONARD: We cannot be optimistic about it, Mr. Chairman; but as with other problems, one has to assume that there will be a willingness among provincial governments to sit down and discuss matters such as these and try to arrive at some conclusions having in mind the major interests involved; and if we cannot have that, then naturally we cannot eliminate duplication so long as it is a provincial matter. One has to assume that





there will be a greater effort than there has been in the past to bring it about; otherwise the only answer to that particular question is the federal tax.

THE CHAIRMAN: Has your association formed any opinion on the representations made by Manitoba and Saskatchewan on this question?

MR. LEONARD: We thought that that was beyond our field. We do not pay these taxes; the citizens of the various provinces do. We know the situation and we can set out the facts. The major point with which we are concerned is the elimination of duplication and of unnecessary administrative cost. But by reason of the fact that there now exists throughout this country a system of provincial taxation on successions, we realize that there are other considerations that arise. There is the question of what will happen with respect to provincial budgets which are now dependent to some extent on succession duties. These are major considerations which it would be presumptuous for us to enter into.

THE CHAIRMAN: Thank you, Mr. Leonard.

MR. LEONARD: I think I can say that there is no question that if there were no succession duties in Canada the logical thing would be a federal tax.

THE CHAIRMAN: There is one point on which you might be able to throw some light. One of the contentions made in Manitoba and Saskatchewan in favour of a dominion as opposed to the provincial tax was that the estates which had been accumulated by residents dying in Ontario and Quebec had been the result of trading throughout Canada, and that it was not fair to the provinces, in which part of the money at least had been made, that the whole benefit should go to the province in which the deceased happened to be domiciled at the time



of his death. I am not asking you to express an opinion on the argument, but can you throw any light on the question whether trust companies, with the experience they have had in the handling of estates, are of the view that this general allegation is true?

MR. LEONARD: I do not think it will be possible to make any observation worth while even on the facts, because there is no question that the larger estates are in Ontario and Quebec. At the time of death the assets may consist of dominion of Canada bonds, we will say, and no one can say how they got the money that finally went into those bonds. We just take the situation as it is at the time of death. The question is really tied in with the whole economic picture from the point of view of the quid pro quo as between various parts of the country in the production of wealth.

THE CHAIRMAN: I suppose the trust companies have not available any statistics that would be of real value, statistics that would indicate whether the larger estates that come into their hands for administration have been built up as the result of trading or of financial transactions extending throughout the country, or have been built up as the result of transactions carried on wholly within the province of domicile?

MR. LEONARD: It would be difficult to get such figures as would really reveal the picture, although it might be easy to obtain certain information from which one might draw wrong conclusions. I think you would have to analyze the history of the man and go through a sufficient number of cases before you could determine in what relationship the wealth represented by various estates stood to transactions carried on in different provinces. One would have to know how the wealth had been



built up. I should think that other statistics would show that more clearly -- statistics relating to the accumulation of wealth in a particular period through savings. It has just been pointed out to me that even if one discovered that the assets of a man consisted largely of investments in an eastern company, in turn the business of the eastern company may have been built up out of business throughout the whole of Canada; so that it would need not only an analysis of the investments but also of the companies whose shares or bonds are represented by those investments.

THE CHAIRMAN: It would involve a general understanding of the territory over which the man carried on his business. It is very difficult to get any figures; I should think, perhaps, impossible. We had a concrete illustration given us in Winnipeg of a company, the principal shareholders of which did not live in Manitoba, but which was carrying on a very large business in Winnipeg, where it was suggested that they had made very substantial profits. One of the members of that company died and it was said that Manitoba did not get any of the succession duties.

MR. LEONARD: There may be such considerations involved in determining which principle should be adopted. Of course, the reverse situation might arise; someone might die in Manitoba with property elsewhere, and it would be to the interests of Manitoba to have domicile apply.

THE CHAIRMAN: So far as the western provinces are concerned, their view of the matter would involve the dominion imposing a tax.





MR. LEONARD: I quite appreciate that.

THE CHAIRMAN: I merely wanted to know whether you could give us any light on the facts.

MR. LEONARD: If by further research we can obtain any information along that line we shall be glad to give it. At the moment I think it would be difficult.

THE CHAIRMAN: I should think it would be.

MR. LEONARD: May I proceed?

" Stock Transfer Taxes.

In their capacity as stock transfer agents, trust companies are also in constant daily contact with stock transfer taxes, and while these are not taxes paid by trust companies, yet as they are collecting them for the governments, there are certain aspects which we should call to the attention of the Commission.

Stock transfer tax is imposed by the dominion, Ontario, and Quebec. The dominion's tax duplicates the provincial tax, and in addition there are cases of triplicate taxation by the three governments, where the head office of a company is in one province and a transfer office in the other. Inspections and audits of company records are made by both dominion and provincial auditors, at different times, and such inspections may involve weeks of time during which members of the staff of a trust company are called upon to devote time to the assistance of the inspectors. As in the case of succession duties, legal questions arise and constant attention is required to comply with the regulations issued in connection with the taxes. It has been estimated that the cost to a trust company in connection with the collection of



"stock transfer taxes amounts to over 15 per cent of the tax collected.

Even if both federal and provincial jurisdictions are to impose stock transfer taxes, it should be possible to have only one collecting and auditing governmental department and a transfer should not be subject to tax in two provinces."

That finishes the brief so far as trust companies are concerned. Part II deals with loan companies.

" Part II.

#### LOAN COMPANIES.

The loan companies that are members of the Dominion Mortgage and Investments Association are all companies whose chief and primary function is to lend money on first mortgage security on improved real estate. There is another type of company that is sometimes called a loan company but which lends on notes or personal property, and which might be described more properly as "small loan" companies or finance companies.

This submission deals only with loan companies engaged in the business of making first mortgage loans on real estate.

#### JURISDICTION.

Loan companies in Canada had their genesis in building societies. Nearly all the loan companies now doing business were originally building societies.

At the time of Confederation, the various provinces had in effect such legislation as the Building Societies Act of the Province of Canada, providing for the incorporation of building societies,



"and this legislation continued in force after 1867. Subsequent developments indicated that these societies could function better with permanent capital stock, and the evolution took place whereby most of them changed into loan and savings companies. Since then both dominion and provincial legislatures have passed legislation dealing with the incorporation and regulation of loan companies.

The remarks in this brief with respect to the duplication of jurisdiction of the provinces and the dominion over trust companies are applicable also to loan companies.

One recommendation is also to the same effect, namely, that duplicate inspection of companies be eliminated and that in the future the dominion department should be made available to inspect provincially incorporated companies rather than that any new provincial department should be set up.

#### TAXATION.

In Schedule "A" to this brief, we have set out the taxes applicable to loan companies as well as to trust companies. Generally speaking, the same remarks apply to both classes of companies in so far as concerns the taxation directly paid by them. There is a variation of bases and a duplication in certain cases as to the tax on capital.

As in the case of trust companies, the aggregate of taxes paid by loan companies to the dominion, provincial and municipal governments bear a relatively high percentage to the net profits of the companies. Even if the total amount of





"taxes were not reduced by the substitution of a provincial net income tax on business transactions in the province, in lieu of the present different bases, we believe that it would be a sounder method of collection; and the use of the Dominion Income Tax Department for its collection and audit should be a saving to the governments and to the taxpayers.

In the case of the Dominion Income Tax Act, it is pertinent to point out the fact that, after a company has paid income tax, the shareholder is also subject to tax on his dividends, and while this is true with respect to all classes of companies in Canada, the following example illustrates the contrast between that system and the British income tax.

From an investor's standpoint, English building societies are comparable to Canadian loan companies. As their income tax legislation exempts dividends if the tax has been paid by a company, an arrangement has been effected between building societies and the authorities, the general effect of which is that the societies pay a special rate of one shilling and eight pence in the pound instead of the standard rate of four shillings and six pence in the pound; in other words, a tax of  $8\frac{1}{2}$  per cent on net profits, instead of  $22\frac{1}{2}$  per cent. No further tax is payable by the shareholder unless he is liable for surtax. This arrangement applies even where the shareholder is not a borrower from the society, in other words, in the same position as a shareholder in a Canadian loan company.

By contrast, in Canada a loan company pays an



"income tax of 15 per cent on its net profits, and then the shareholder is again taxed on what he receives from the company. In addition, there are the provincial and municipal taxes (other than taxes on real estate) in Canada, for which there is no counterpart in England."

THE CHAIRMAN: Does not the English building society still serve very much the same purpose as the old building societies did in Upper and Lower Canada?

MR. LEONARD: Yes, except that so far as our old building societies were concerned --

THE CHAIRMAN: I mean, they are composed largely, are they not, of people who subscribe for stock and get loans?

MR. LEONARD: No, there has been a great development away from that. The man who borrows does have to subscribe, but the bulk of their money comes from investors, shareholders, and in some cases a large amount comes from depositors who are not borrowers.

THE CHAIRMAN: Of course, in our case, to-day the shareholders of a loan company are like the shareholders of any other financial institution. They invest in stock if they think the investment is a good one; otherwise they do not.

MR. LEONARD: The situation is the same if one wants to buy shares in the Halifax society for example. That can be done as a straight investment, the only difference being that in practise their shares are callable; the shareholder can walk in and ask for his investment.

THE CHAIRMAN: Yes, they are redeemable. But why should the English principle be applied in Canada, if that is the effect of your suggestion, in contradistinction



to any other financial institution? The stockholders of a loan company are in the same position as the stockholders of any other financial institution.

MR. LEONARD: I am not suggesting that it should be. I merely wanted to point out that that particular case, which has come to my attention at various times, seems to be the nearest I could get at in endeavouring to find out what effect our double tax might have in an enterprise such as the loan company business; otherwise one can never estimate how much individual shareholders are paying in addition to the tax the company pays. The British system always seemed a fairer system, even if the rate were raised, because once the tax was paid it was paid; and what struck me was that the income tax authorities there made an arrangement with the company whereby, instead of the company paying  $22\frac{1}{2}$  per cent, and the shareholder coming forward and saying that he was not subject to income tax at all, a settlement was agreed upon on the basis of a payment by the company of  $8\frac{1}{2}$  per cent. My colleague draws my attention to a correction in the brief. The standard rate in Great Britain is five shillings in the pound. At the time this statement was drawn up it was four shillings and six pence, but it is now five shillings in the pound.

THE CHAIRMAN: It is five shillings now?

MR. LEONARD: Yes, the standard rate; and that would raise the rate of one shilling and eight pence by the same proportion as the four shillings and six pence is increased to five shillings.

COMMISSIONER ANGUS: Was there some special reason for the concession in England? Was it to encourage loans to small home owners?

MR. LEONARD: In the reading I have done on that





particular subject I do not find it so stated. The inference I drew was that the average investment being a small one, presumably the shareholder would apply for a rebate instead of the tax paid by the company. For instance, this arrangement does not apply to investments over five thousand pounds. If an investor in a British building society puts more than five thousand pounds into the company, the company must deduct the full standard rate from any dividend paid him. That seemed to be the basis and in that regard it appeared to be applicable to our loan companies, because the average investor in a loan company here is comparable to the average investor in a building society. One may be a little larger than the other, but not a great deal.

THE CHAIRMAN: On this particular point, do loan companies stand in any different position from any other financial institution?

MR. LEONARD: I should not think that they would stand in a different position from any other company that had a diversity of shares comparatively small in amount.

COMMISSIONER ANGUS: For the investor in England to ask for the return of his money, his income would have to be so low that he would not be liable to the full tax of five shillings in the pound.

MR. LEONARD: The arrangements to which I have referred deals purely with investors who are not borrowers. When we talk about a twenty-three per cent tax on a company, we must remember that here there is a fifteen per cent dominion tax and an additional provincial tax, and we must also bear in mind the fact that the same business must pay the tax that the shareholder pays when he receives his dividend, and there is no way of



estimating that. There is a difference between taxing the same business right through to the shareholder and taxing it only once. We think of five shillings in the pound as a high income tax, but it is imposed only once. I am not suggesting that there should be a change, but I thought it might be well to point out that notwithstanding that we have only a fifteen per cent tax it is in fact a high tax. I come now to the conclusion:

" CONCLUSION

In making this submission, we desire to repeat that it is recognized that our companies, along with others, must bear their full and fair share of taxation in Canada. We believe that a situation has developed in this country whereby the various taxing bodies, acting independently of each other and having regard to their own fiscal problems only, have created a tax situation which detrimentally affects our economic system. Even if one assumes that it is essential that the same aggregate amount of taxes must continue to be raised in order to perform the necessary functions of government in this country, it seems imperative that waste and duplication should be eliminated, and that as long as there are two or more taxing jurisdictions, there should be coordination between them so that in addition to eliminating overlapping, the combined taxes of all governments will bear a proper relation to the national income.

In conclusion, may we express to the Commission our desire to make available to it any further information or assistance within our knowledge and to cooperate to the fullest extent



"in the work of the Commission."

We should like to put in a brief later on dealing with our investment position as holders of securities in this country

EXHIBIT No. 35: Submission of Dominion Mortgage and Investments Association.

MR. STEWART: Turning to page 5, where you urge that there be coordination among taxing jurisdictions in the matter of machinery of tax collection, would you care to elaborate that a little and illustrate the form of coordination you had in mind? Do you suggest the creation of a tax-collecting body?

MR. LEONARD: In arriving at a conclusion as to actual machinery, I should not like to say anything that might not reflect the views of the people I represent. I could only express personal views in so far as I have given the question consideration, but I think there should be some kind of permanent body, a secretariat, which might make a study of taxing matters in Canada; and broadly speaking, I am of the opinion that the different taxing bodies should be willing to get together and co-operate in devising some form of machinery that would avoid duplication and the difficulties that result from lack of coordination.

MR. STEWART: With a view, ultimately, to working out some sort of joint permanent commission?

MR. LEONARD: One of the most important agencies would be something in the nature of a permanent secretariat, a research bureau on taxation.

MR. STEWART: On page 8 you discuss the question of remuneration on the basis of the scale of fees established prior to the time when taxing statutes imposed these duties on executors and trustees. Is it not generally the case in all the provinces that executors and administrators are remunerated on the basis of their





work, their pains and troubles?

MR. LEONARD: But in establishing that basis there has grown up -- certainly in Ontario, with respect to which I can speak with more knowledge than I can of other parts of Canada -- a tariff, so to speak, under which the maximum an executor can receive is five per cent on the income -- two and a half per cent on receipts and two and a half per cent on disbursements. That is the maximum. In the case of an estate where the collection of income was comparatively easy, only one or one and a half per cent might be allowed. They might bring that up, where there was more expense, to the two and a half per cent, but that is the maximum. Generally speaking, the scales all the way through were established by decisions in the nineties and the early part of this century.

MR. STEWART: It would be hard to revise the schedule.

MR. LEONARD: Yes, it is difficult to bring about a recognition of additional expenses. It does not matter whether we pay it or the public pays it, there seems to be unnecessary expense that could be avoided, and we should try to minimize it.

THE CHAIRMAN: In the end, I suppose the public pay all taxes.

MR. LEONARD: I do not know from what other source they would come.

MR. STEWART: Would you care to express an opinion on this point? Should the jurisdiction to levy succession duties be transferred, as has been suggested in the past, to the dominion? Would a larger amount be collected by the dominion than by the several provinces?

MR. LEONARD: To the extent that there is ~~duplication~~ <sup>duplication</sup>



at the present time; there would be less when you eliminated that duplication. There would be a saving to the public in expense; otherwise it would seem to me, giving my offhand opinion, that if the provinces were administering their Acts to the fullest extent, taxing all taxable property, so that no one could evade it, there would not be any increase. But there may be the possibility of escape from taxation under the present system.

MR. STEWART: If we can judge from events of fairly recent times, there has been some evasion in the past.

MR. LEONARD: Yes.

MR. STEWART: At any rate, so it is alleged. The laws call for the taxation of all property in Canada and presumably, the rate being the same, there would be no more raised; but duplication would be eliminated.

MR. LEONARD: Possibly less would be raised because there would not be the dual situation.

COMMISSIONER ANGUS: Would there be any economy from having a uniform rate throughout the country, so that one could not have one's domicile in a province with a lower rate?

MR. LEONARD: Yes, there would be a big saving in expense, I should think, because expense is involved in dealing with government officials.

COMMISSIONER DANCE: Do you think that if the dominion were the sole taxing body there would be less chance of evasion?

MR. LEONARD: In my opinion that is largely a matter of administration. If a province does want to enforce its Act it should be able to tax property located in the province just as well as the dominion.



COMMISSIONER ANGUS: If the dominion were administering income tax, both for itself and for the provinces, would it tend to become a more efficient collector of succession duties? Does one set of returns serve as a check against the other?

MR. LEONARD: I understand that the income tax information is available to the provincial taxing authorities. Certainly, all information would be of assistance in dealing with succession duties.

THE CHAIRMAN: This concludes our program for to-day. We will resume to-morrow morning at ten thirty.

(The Commission adjourned at  
4.30 p.m., until 10.30 a.m.,  
Wednesday, January 19, 1938.)

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